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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, 20th March, 1993

No. RP/12/93/Ord1/93/47/Research.—The following Ordinance promulgated by the President and published in the Gazette of India, Extra-ordinary, Part-II, Section 1, dated the 2nd January, 1993 is republished for general information:—

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi the 2nd January, 1993/Pausa 12, 1914 (Saka)

THE ESSENTIAL COMMODITIES (SPECIAL PROVISIONS) AMENDMENT ORDINANCE, 1993.

No. 1 OF 1993.

Promulgated by the President in the Forty-third Year of the Republic of India.

An Ordinance further to amend the Essential Commodities (Special Provisions) Act, 1981 and to make special provision by way of amendment to the Essential Commodities Act, 1955.

WHEREAS the Essential Commodities (Special Provisions) Amendment Ordinance, 1992, to provide for the aforesaid matters was promulgated by the President on the 27th day of August, 1992;

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AND WHEREAS the Essential Commodities (Special Provisions) Amendment Bill, 1992 was introduced in the House of the People to replace the said Ordinance, but has not been passed;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE in exercise of the powers conferred by clause (*1*) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

Short title and commencement.

1. (*1*) This Act may be called the Essential Commodities (Special Provisions) Amendment Ordinance, 1993.

(*2*) It shall be deemed to have come into force on the 27th day of August, 1992.

Amendment of preamble.

2. In paragraph 2 of the preamble to the Essential Commodities (Special Provisions) Act, 1981 (hereinafter referred to as the principal Act), for the words "ten years", the words "fifteen years" shall be substituted.

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Amendment of section 1.

3. In section 1 of the principal Act, in sub-section (*3*), for the words "ten years", the words "fifteen years" shall be substituted.

Insertion of new section 9A.

4. After section 9 of the principal Act, the following section shall be inserted:—

Insertion of new section 10AA in Act 10 of 1955.

'9A. In the Essential Commodities Act, 1955, after section 10A, the following section shall be inserted namely:—

Power to arrest.

10AA. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, no officer below the rank of an officer in charge of a police station or any police officer authorised by him in this behalf in writing, shall arrest any person accused of committing an offence punishable under this Act.".'

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Repeal and saving.

5. (*1*) The Essential Commodities (Special Provisions) Amendment Ordinance, 1992 is hereby repealed.

Ord. 12 of 1992.

(*2*) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Ordinance.

SHANKER DAYAL SHARMA,
President.

K. L. MOHANPURIA,
Secy. to the Govt. of India.

By order and in the name of the Governor of Gujarat,

B. K. SHAH,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GAN

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Extra No. 2 REGISTERED NO. G/GNR/2.

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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, 20th March, 1993.

No. RP/17/93/Ord. 2/93/49/Research/:— The following Ordinance promulgated by the President and published in the Gazette of India, Extra-Ordinary, Part-II, Section1, dated 2nd January, 1993 is republished for general information:—

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(LEGISLATIVE DEPARTMENT)

New Delhi the 2nd January, 1993/Pausa 12, 1914 (Saka)

THE INDIAN MEDICAL COUNCIL (AMENDMENT) ORDINANCE, 1993.

No. 2 of 1993

Promulgated by the President in the Forty-third Year of the Republic of India.

An Ordinance further to amend the Indian Medical Council Act, 1956.

WHEREAS the Indian Medical Council (Amendment) Ordinance, 1992, to provide for the aforesaid matter was promulgated by the President on the 27th day of August, 1992;

AND WHEREAS the Indian Medical Council (Amendment) Bill, 1992 to replace the said Ordinance has been passed by the Council of States and is pending in the House of the People;

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AND WHEREAS Parliament is not in session and the President is satisfied that circumstnces exist which render it necessary for him to take immediate action:

NOW THEREFORE, in exercise of the powers conferred by clause (*1*) of artical 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

Short title and commencement.

1. (*1*) This Ordinance may be called the Indian Medical Council (Amendment) Ordinance, 1993.

(*2*) It shall be deemed to have come into force on the 27th day of August, 1992.

Insertion of new sections 10A, 10B and 10C.

2. After section 10 of the Indian Medical Council Act, 1956 (hereinafter referred to as the principal Act), the following sections shall be inserted namely:— 102 of 1956.

Permission for establishment of new medical college, new course of study, etc.

10A. (*1*) Notwithstanding anything contained in this Act or any other law for the time being in force,—

(*a*) no person shall establish a medical college; or

(*b*) no medical college shall—

(*i*) open a new or higher course of study or training (including a post-graduate course of study or training) which would enable a student of such course or training to qualify himself for the award of any recognised medical qualification; or

(*ii*) increase its admission capacity in any course of study or training (including a post-graduate course of study or training),

except with the previous permission of the Central Government obtained in accordance with the provisions of this section.

Explanation 1.—For the purposes of this section "person" includes any University or a trust but does not include the Central Government.

Explanation. 2—For the purposes of this section, "admission capacity" in relation to any course of study or training (including post-graduate course of study or training) in a medical college, means the maximum number of students that may be fixed by the Council from time to time for being admitted to such course or training.

(*2*) (*a*) Every person or medical college shall, for purpose of obtaining permission under sub-section (*1*), submit to the Central Government a scheme in accordance with the provisions of clause (*b*) and the Central Government shall refer the scheme to the Council for its recommendations.

(*b*) The scheme referred to in clause (*a*) shall be in such form and contain such particulars and be preferred in such manner and be accompained with such fee as may be prescribed.

(*3*) On receipt of a scheme by the Council under sub-section (2), the Council may obtain such other particulars as may be considered necessary by it from the person or the medical college concerned, and thereafter, it may,—

(*a*) if the scheme is defective and does not contain any necessary particulars, give a reasonable opportunity to the person or college concerned for making a written representation and it shall be open to such person or medical college to rectify the defects, if any, specified by the Council;

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(b) consider the scheme, having regard to the factors referred to in sub-section (7), and submit the scheme together with its recommendations thereon to the Central Government.

(4) The Central Government may, after considering the scheme and the recommendations of the Council under sub-section (3) and after obtaining, where necessary, such other particulars as may be considered necessary by it from the person or college concerned, and having regard to the factors referred to in sub-section (7), either approve (with such conditions, if any, as it may consider necessary) or disapprove the scheme and any such approval shall be a permission under sub-section (1):

Provided that no scheme shall be disapproved by the Central Government except after giving the person or college concerned a reasonable opportunity of being heard:

Provided further that nothing in this sub-section shall prevent any person or medical college whose scheme has not been approved by the Central Government to submit a fresh scheme and the provisions of this section shall apply to such scheme, as if such scheme has been submitted for the first time under sub-section (1).

(5) Where, within a period of one year from the date of submission of the scheme to the Central Government under sub-section (1), no order passed by the Central Government has been communicated to the person or college submitting the scheme, such scheme shall be deemed to have been approved by the Central Government in the form in which it had been submitted, and, accordingly, the permission of the Central Government required under sub-section (1) shall also be deemed to have been granted.

(6) In computing the time-limit specified in sub-section (5), the time taken by the person or college concerned submitting the scheme, in furnishing any particulars called for by the Council, or by the Central Government, shall be excluded.

(7) The Council, while making its recommendations under clause (b) of sub-section (3) and the Central Government, while passing an order, either approving or disapproving the scheme under sub-section (4), shall have due regard to the following factors, namely:—

(a) whether the proposed medical college or the existing medical college seeking to open a new or higher course of study or training would be in a position to offer the minimum standards of medical education as prescribed by the Council under section 19A or, as the case may be, under section 20 in the case of post-graduate medical education;

(b) whether the person seeking to establish a medical college or the existing medical college seeking to open a new or higher course of study or training or to increase its admission capacity has adequate financial resources;

(c) whether necessary facilities in respect of staff, equipment, accommodation, training and other facilities to ensure proper functioning of the medical college or conducting the new course of study or training or accommodating the increased admission capacity have been provided or would be provided within the time-limit specified in the scheme;

(d) whether adequate hospital facilities, having regard to the number of students likely to attend such medical college or course of study or training or as a result of the increased admission capacity, have been provided or would be provided within the time-limit specified in the scheme;

(e) whether any arrangement has been made or programme drawn to impart proper training to students likely to attend such medical college or course of study or training by persons having the recognised medical qualifications;

(*f*) the requirement of manpower in the field of practice of medicine; and

(*g*) any other factors as may be prescribed.

(*8*) Where the Central Government passes an order either approving or disapproving a scheme under this section, a copy of the order shall be communicated to the person or college concerned.

Non-recognition of medical qualifications in certain cases.

10B. (*1*) Where any medical college is established except with the previous permission of the Central Government in accordance with the provisions of section 10A, no medical qualification granted to any student of such medical college shall be a recognised medical qualification for the purposes of this Act.

(*2*) Where any medical college opens a new or higher course of study or training (including a post-graduate course of study or training) except with the previous permission of the Central Government in accordance with the provisions of section 10A, no medical qualification granted to any student of such medical college on the basis of such study or training shall be a recognised medical qualification for the purposes of this Act.

(*3*) Where any medical college increases its admission capacity in any course of study or training except with the previous permission of the Central Government in accordance with the provisions of section 10A, no medical qualification granted to any student of such medical college on the basis of the increase in its admission capacity shall be a recognised medical qualification for the purposes of this Act.

Explanation.—For the purposes of this section, the criteria for identifying a student who has been granted a medical qualification on the basis of such increase in the admission capacity shall be such as may be prescribed.

Time for seeking permission for certain existing medical collages etc.

10C. (1) If, after the 1st day of June, 1992 and on and before the commencement of the Indian Medical Council (Amendment) Ordinance, 1992 any person has established a medical college or any medical college has opened a new or higher course of study or training or increase the admission capacity, such person or medical college as the case may be, shall seek, within a period of one year from the commencement of the Indian Medical Coucncil (Amendment) Ordinance, 1992, the permission of the Central Government in accordance with the provision of section 10A.

Ord. 13 1992.

(*2*) If any person or medical college, as the case may be, fails to seek the permission under sub-section (*1*), the provisions of section 10B shall apply, so far as may be, as if, permission of the Central Government under section 10A has been refused.'.

Amendment of section 33.

3. In section 33 of the principal Act, after clause (*f*), the following clauses shall be inserted, namely:—

"(*fa*) the form of the scheme, the particulars to be given in such scheme, the manner in which the scheme is to be preferred and the fee payable with the scheme under clause (*b*) of sub-section (*2*) of section 10A;

(*fb*) any other factors under clause (*g*) of sub-section (*7*) of section 10A;

(*fc*) the criteria for identifying a student who has been granted a medical qualification referred to in the *Explanation* to sub-section (*3*) of section 10B".

Ord. 13 of 1992.

Repeal and saving.

4. (*1*) The Indian Medical Council (Amendment) Ordinance, 1992 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act as amended by this Ordinance.

SHANKER DAYAL SHARMA,
President.

K. L. MOHANPURIA,
Secy. to the Govt. of India.

By order and in the name of the Governor of Gujarat,

B. K. SHAH,
Secretary to Government.

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GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, 20th March, 1993.

No. RP/18/83/Ord. 3/93/45/Research/ .—The following Ordinance promulgated by the President and published in the Gazette of India, Extra-ordinary, Part-II, Section 1, dated the 2nd January. 1993 is republished for general information:—

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(LEGISLATIVE DEPARTMENT)

New Delhi, the 2nd January, 1993/Pausa 12, 1914 (Saka)

THE DENTISTS (AMENDMENT) ORDINANCE, 1993

No. 3 OF 1993

Promulgated by the President in the Forty-third Year of the Republic of India.

An Ordinance further to amend the Dentists Act, 1948.

WHEREAS the Dentists (Amendment) Ordinance 1992 to provide for the aforesaid matter was promulgated by the President on the 27th day of August, 1992;

AND WHEREAS the Dentists (Amendment) Bill, 1992 to replace the said Ordinance has been passed by the Council of States and is pending in the House of the People;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

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Now, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

Short title and commencement.

1. (*1*) This Ordinance may be called the Dentists (Amendment) Ordinance, 1993.

(*2*) It shall be deemed to have come into force on the 27th day of August, 1992.

Insertion of new sections 10A, 10B and 10C.

2. After section 10 of the Dentists Act, 1948 (hereinafter referred to as the principal Act), the following sections shall be inserted, namely :— 16 of 1948

Permission for establishment of new dental college new courses of study etc.

'10A. (*1*) Notwithstanding anything contained in this Act or any other law for the time being in force,—

(*a*) no person shall establish an authority or institution for a course of study or training including a post-graduate course of study or training) which would enable a student of such course or training to qualify himself for the grant of recognised dental qualification; or

(*b*) no authority or institution conducting a course of study or training (including a post-graduate course of study or training) for grant of recognised dental qualification shall—

(*i*) open a new or higher course of study or training (including a post-graduate course of study or training) which would enable a student of such course or training to qualify himself for the award of any recognised dental qualification; or

(*ii*) increase its admission capacity in any course of study or training (including a post-graduate course of study or training),

except with the previous permission of the Central Government obtained in accordance with the provisions of this section.

Explanation 1.—For the purposes of this section, "person" includes and University or a trust but does not include the Central Government.

Explanation 2.—For the purposes of this section, "admission capacity", in relation to any course of study or training (including a post-graduate course of study or training) in an authority or institution granting recognised dental qualification, means the maximum number of students that may be fixed by the Council from time to time for being admitted to such course or training.

(*2*) (*a*) Every person, authority or institution granting recognised dental qualification shall, for the purpose of obtaining permission under sub-section (*1*), submit to the Central Government a scheme in accordance with the provisions of clause (*b*) and the Central Government shall refer the said scheme to the Council for its recommendations.

(*b*) The scheme referred to in clause (*a*) shall be in such form and contain such particulars and be preferred in such manner and be accompanied with such fee as may be prescribed.

(*3*) On receipt of a scheme by the Council under sub-section (*2*), the Council may obtain such other particular as may be considered necessary by it from the person, authority or institution concerned, granting recognised dental qualification and thereafter, it may,—

(*a*) if the scheme is defective and does not contain any necessary particulars, give a reasonable opportunity to the person, authority or institution concerned for making a written representation and it shall be open to such person, authority or institution to rectify the defects, if any, specified by the Council;

(*b*) consider the scheme, having regard to the factors referred to in sub-section (*7*), and submit the scheme together with its recommendations thereon to the Central Government.

(*4*) The Central Government may, after considering the scheme and the reommendations of the Council under sub-section (3) and after obtaining, where necessary, such other particulars as may be considered necessary by it from the person, authority or institution concerned, and having regard to the factors referred to in sub-section (*7*) either approve (with such conditions, if any, as it may consider necessary) or disapprove the scheme and any such approval shall be a permission under sub-section (1) :

Provided that no scheme shall be disapproved by the Central Government except after giving the person, authority or institution concerned granting recognised dental qualification a reasonable opportunity of being heard :

Provided further that nothing in this sub-section shall prevent any person, authority or institution whose scheme has not been approved to submit a fresh scheme and the provisions of this section shall apply to such scheme, as if such scheme has been submitted for the first time under sub-section (*1*).

(*5*) Where, within a period of one year from the date of submission of the scheme to the Central Government under sub-section (*1*), no order passed by the Central Government has been communicated to the person, authority or institution submitting the scheme, such scheme shall be deemed to have been approved by the Central Government in the form in which it had been submitted, and, accordingly, the permission of the Central Government required under sub-section (*1*) shall also be deemed to have been granted.

(*6*) In computing the time-limit specified in sub-section (*5*), the time taken by the person, authority or institution concerned submitting the scheme in furnishing any particulars called for by the Council or by the Central Government, shall be excluded.

(*7*) The Council, while making its recommedations under clause (*b*) of sub-section (*3*) and the Central Government, while passing an order either approving or disapproving the scheme under sub-section (*4*), shall have due regard to the following factors, namely :—

(*a*) whether the proposed authority or institution for grant of recognised dental qualification or the existing authority or institution seeking to open a new or higher course of study or training, would be in a position to offer the minimum standards of dental education in conformity with the requirements referred to in section 16A and the regulations made under sub-section (*1*) of section 20;

(*b*) whether the person seeking to establish an authority or institution or the existing authority or institution seeking to open a new or higher course of study or training or to increase its admission capacity has adequate resources;

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(*c*) whether necessary facilities in respect of staff, equipment, accommodation, training and other facilities to ensure proper functioning of the authority or institution or conducting the new course of study or training or accommodating the increased admission capacity have been provided or would be provided within the time-limit specified in the scheme;

(*d*) whether adequate hospital facilities, having regard to the number of students likely to attend such authority or institution or course of study or training or as a result of the increased admission capacity have been provided or would be provided within the time-limit specified in the scheme;

(*e*) whether any arrangement has been made or programme drawn to impart proper training to students likely to attend such authority or institution or course of study or training by persons having the recognised dental qualifications;

(*f*) the requirement of manpower in the field of practice of dentistry; and

(*g*) any other factors as may be prescribed.

(*8*) Where the Central Government passes an order either approving or disapproving a scheme under this section, a copy of the order shall be communicated to the person, authority or institution concerned.

Non-recognition of dental qualifications in certain cases.

10B. (*1*) Where any authority or institution is established for grant of recognised dental qualification except with the previous permission of the Central Government in accordance with the provisions of section 10A, no dental qualification granted to any student of such authority or institution shall be a recognised dental qualification for the purposes of this Act.

(*2*) Where any authority or institution granting recognised dental qualification opens a new or higher course of study or training (incluing a post-graduate course of study or training) except with the previous permission of the Central Government in accordance with the provisions of section 10A, no dental qualification granted to any student of such authority or institution on the basis of such study or training shall be a recognised dental qualification for the purposes of this Act.

(*3*) Where any authority or institution granting recognised dental qualification increases its admission capacity in any course of study or training (including a post-graduate course of study or training) except with the previous permission of the Central Government in accordance with the provisions of section 10A, no dental qualification granted to any student of such authority or institution on the basis of the increase in its adimission capacity shall be a recognised dental qualification for the purposes of this Act.

Explanation.—For the purposes of this section, the criteria for identifying a student who has been granted a dental qualification on the basis of such increase in the admission capacity shall be such as may be prescribed.

Time for seeking permission for certain existing authorities.

10C. (*1*) If, after the 1st day of June, 1992 and on and before the commencement of the Dentists (Amendment) Ordinance, 1992 any person has established an authority or institution for grant of recognised dental qualification or any authority or institution granting recognised dental qualification has opened a new or higher course of study or training (including a post-graduate course of study or training) or increased its admission capacity, such person, authority or institution as the case may be, shall seek, within a period of one year from the commencement of the Dentists (Amendment) Ordinance, 1992, the permission of the Central Government in accordance with the provisions of section 10A.

Ord. 14 of 1992.

(*2*) If any person or, as the case may be, any authority or institution granting recognised dental qualification fails to seek the permission under sub-section (*1*), the provisions of section 10B shall apply, so far as may be, as if permission of the Central Government under section 10A has been refused.'

Amendment of section 20.

3. In section 20 of the principal Act, in sub-section (*2*), after clause (*f*), the following clauses shall be inserted, namely:—

"(*fa*) prescribe the form of the scheme, the particulars to be given in such scheme, the manner in which the scheme is to be preferred and the fee payable with the scheme under clause (*b*) of sub-section (*2*) of section 10A;

(*fb*) prescribe any other factors under clause (g) of sub-section (*7*) of section 10A;

(*fc*) prescribe the criteria for identifying a student who has been granted a dental qualification referred to in the Explanation to sub-section (*3*) of section 10B.".

Ord. 14 of 1992.

Repeal and saving.

4. (*1*) The Dentists (Amendment) Ordinance, 1992 is hereby repealed.

(*2*) Notwithstading such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Ordinance.

SHANKER DAYAL SHARMA,
President.

K. L. MOHANPURIA,
Secy. to the Govt. of India.

By order and in the name of the Governor of Gujarat,

B. K. SHAH,
Secretary to Government.

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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, 20th March, 1993.

No. RP/19/93/Ord. 4/93/48/Research.—The following Ordinance promulgated **by the President and published** in the Gazette of India, Extra-ordinary, Part II, Section 1, **dated the 2nd January,** 1993 is republished for general information :—

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 2nd January, 1993/Pausa 12, 1914 (Saka)

THE INTEREST ON DELAYED PAYMENTS TO SMALL SCALE AND ANCILLARY INDUSTRIAL UNDERTAKINGS ORDINANCE, 1993

No. 4 OF 1993

Promulgated by the President in the Forty-third Year of the Republic of India.

An Ordinance to provide for and regulate the payment of interest on delayed payments to small scale and ancillary industrial undertakings and for matters connected therewith or incidental thereto.

WHEREAS the Interest on Delayed Payments to Small Scale and Ancillary Industrial Undertakings Ordinance, 1992 to provide for the aforesaid matters was promulgated by the President on the 23rd day of September, 1992;

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AND WHEREAS the Interest on Delayed Payments to Small Scale and Ancillary Industrial Undertakings Bill, 1992 was introduced in the House of the People to replace the said Ordinance, but has not been passed;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW THEREFORE in exercise of the powers conferred by clause (*1*) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

Short title, extent and commencement 1. (*1*) This Ordinance may be called the Interest on Delayed Payments to Small Scale and Ancillary Industrial Undertakings Ordinance, 1993.

(*2*) It extends to the whole of India, except the State of Jammu and Kashmir.

(*3*) It shall be deemed to have come into force on the 23rd day of September, 1992.

Definitions. 2. In this Ordinance, unless the context otherwise requires,—

(*a*) "ancillary industrial undertaking" has the meaning assigned to it by clause (*aa*) of section 3 of the Industries (Development and Regulation) Act, 1951; 65 of 1951.

(*b*) "appointed day" means the day following immediately after the expiry of the period of thirty days from the day of acceptance or the day of deemed acceptance of any goods or any services by a buyer from a supplier;

Explanation.—For the purposes of this clause,—

(*i*) "the day of acceptance" means,—

(*a*) the day of the actual delivery of goods or the rendering of services; or

(*b*) where any objection is made in writing by the buyer regarding acceptance of goods or services within thirty days from the day of the delivery of goods or the rendering of services, the day on which such objection is removed by the supplier;

(*ii*) "the day of deemed acceptance" means, where no objection is made in writing by the buyer regarding acceptance of goods or services within thirty days from the day of the delivery of goods or the rendering of services, the day of the actual delivery of goods or the rendering of services;

(*c*) "buyer" means whoever buyer any goods or receives any services from a supplier for consideration;

(*d*) "goods" means every kind of movable property other than actionable claims and money;

(*e*) "small scale industrial undertaking" has the meaning assigned to it by clause (*j*) of, section 3 of the Industries (Development and Regulation) Act, 1951; 65 of 1951.

(*f*) "supplier" means an ancillary industrial undertaking or a small scale industrial undertaking holding a permanent registration certificate issued by the Directorate of Industries of a State or Union territory.

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Liability of buyer to make payment.

3. Where any supplier supplies any goods or renders any services to any buer, the buyer shall make payment therefor on or before the date agreed upon between him and the supplier in writing or, where there is no agreement in this behalf, before the appointed day.

Date from which and rate at which interest is payable.

4. Where any buyer fails to make payment of the amount to the supplier, as required under section 3, the bayer shall, notwithstanding anything contained in any agreement between the bayer and the supplier or in any law for the time being in force, be liable to pay interest to the supplier on that amount from the appointed day or, as the case may be, from the date immediately following the date agreed upon, at such rate which is five per cent. points above the floor rate for comparable lending.

Explanation.—For the purposes of this section, "floor rate for comparable lending" means the highest of the minimum lending rates charged by scheduled banks (not being co-operative banks) on credit limits in accordance with the directions given or issued to banking companies generally by the Reserve Bank of India under the Banking Regulation Act, 1949. 10 of 1949.

Liability of buyer to pay compound interest

5. Notwithstanding anything contained in any agreement between a supplier and a buyer or in any law for the time being in force, the buyer shall be liable to pay compound interest (with monthly rests) at the rate mentioned in section 4 on the amount due to the supplier.

Recovery of amount due.

6. The amount due from a buyer, together with the amount of interest calculated in accordance with the provisions of section 4 and 5, shall be recoverable by the supplier from the buyer by way of a suit or other proceeding under any law for the time being in force.

Appeal.

7. No appeal against any decree, award or other order shall be entertained by any court or other authority unless the appellant (not being a supplier) has deposited with it seventy-five per cent. of the amount in terms of the decree, award or, as the case may be, other order in the manner directed by such court or, as the case may be, such authority.

Requirement to specify unpaid amount with interest in the annual statement of accounts.

8. Where any buyer is required to get his annual accounts audited under any law for the time being in force, such buyer shall specify the amount together with the interest in his annual statement of accounts as remains unpaid to any supplier at the end of each accounting year.

Interest not to be allowed as deduction from income.

9. Notwithstanding anything contained in the Income Tax Act, 1961, the amount of interest payable or paid by any buyer, under or in accordance with the provisions of this Ordinance, shall not, for the purposes of computation of income under that Act, be allowed as deduction. 43 of 1961.

Over riding effect.

10. The provisions of this Ordinance shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Repeal and saving.

11. (*1*) The Interest on Delayed Payments to Small Scale and Ancillary Industrial Undertakings Ordinance, 1992 is hereby repealed. Ord. 15 of 1992.

(2) Notwithstanding such repeal, anything done or any action taken under the Ordinance so repealed shall be deemed to have been done or taken under the corresponding provisions of this Ordinance.

SHANKER DAYAL SHARMA,
President.

K. L. MOHANPURIA,
Secy. to the Govt. of India.

By order and in the name of the Governor of Gujarat,

B. K. SHAH,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, 20th March, 1993.

No. RP/20/93/Ord. 5/93/44/Research/ /.—The following Ordinance **promulgated by the President** and published in the Gazette of India, Extra-ordinary, Part-II, Section 1, dated the 2nd January, 1993 is republished for general information:—

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(LEGISLATIVE DEPARTMENT)

New Delhi, the 2nd January, 1993/*Pausa* 12, 1914 (*Saka*)

THE INDUSTRIAL FINANCE CORPORATION (TRANSFER OF UNDERTAKING AND REPEAL) ORDINANCE, 1993.

No. 5 OF 1993

Promulgated by the President in the Forty-third Year of the Republic of India.

An Ordinance to provide for the transfer and vesting of the undertaking of the Industrial Finance Corporation of India to and in the Company to be formed and registered as a Company under the Companies Act, 1956, and for matters connected therewith or incidental thereto and also to repeal the Industrial Finance Corporation Act, 1948.

WHEREAS the Industrial Finance Corporation (Transfer of Undertaking and Repeal) Ordinance, 1992, to provide for the aforesaid matters was promulgated by the President on the 1st day of October, 1992;

AND WHEREAS the Industrial Finance Corporation (Transfer of Undertaking and Repeal) Bill, 1992 was introduced in the House of the People to replace the said Ordinance, but has not been passed;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

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NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

Short title and commencement.

1. (*1*) This Act may be called the Industrial Finance Corporation (Transfer of Undertaking and Repeal) Ordinance, 1993.

(*2*) It shall be deemed to have come into force on the 1st day of October, 1992.

Definitions.

2. In this Ordinance, unless the context otherwise requires,—

(*a*) "appointed day" means such date as the Central Government may, by notification in the Official Gazette, appoint under section 3;

(*b*) "Company" means the Industrial Finance Corporation of India Limited to be formed and registered under the Companies Act, 1956; **1 of 1956.**

(*c*) "Corporation" means the Industrial Finance Corporation of India established under sub-section (*1*) of section *3* of the Industrial Finance Corporation Act, 1948. **15 of 1948.**

Undertaking of the Corporation to vest in the Company.

3. On such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be transferred to, and vest in, the Company the undertaking of the Corporation.

General effect of vesting of undertaking in the company.

4. (*1*) Every shareholder of the Corporation immediately before the appointed day shall be deemed to be registered on and from the appointed day as a shareholder of the Company to the extent of the face value of the shares held by such shareholder.

(*2*) The undertaking of the Corporation which is trnsferred to and which vests in the Company under section 3 shall be deemed to include all business, assets, rights, powers, authorities and privileges and all properties, movable and immovable real and personal, corporeal and incorporeal in possession or reservation, present or contingent of whatever nature and wheresoever situate including lands, buildings, vehicles, cash balances, deposits, foreign currencies, disclosed and undisclosed reserves, reserve fund, special reserve fund, benevolent reserve fund, any other fund, stocks, investments, shares bonds, debentures, security, management of any industrial concern, loans, advances and guarantees given to industrial concerns, tenancies leases and book debts and all other rights and interests arising out of such property as were immediately before the appointed day in the ownership, possession or power of the Corporation in relation to its undertaking, within or without India, all books of accounts, registers, records and documents relating thereto and shall also be deemed to include all borrowings, liabilities and obligations of whatever kind within or without India then subsisting of the Corporation in relation to its undertaking.

(*3*) All contracts, deeds, bonds, guarantees, powers of attoney, other instruments and working arrangements subsisting immediately before the appointed day and affecting the Corporation shall cease to have effect or to be enforeable against the Corporation and shall be of as full force and effect against or in favour of the Company in which the undertaking of the Corporation has vested by virtue of this Ordinance and enforceable as fully and effectually as if instead of the Corporation, the Company had been named therein or had been a party thereto.

(*4*) Any proceeding or cause of action pending or existing immediately before the appointed day by or against the Corporation in relation to its undertaking may, as from the appointed day, be continued and enforced by or against the Company in which the undertaking of the Corporation has vested by virtue of this Ordinance as it might have been enforced by or against the Corporation if this Ordinance had not been promulgated and shall cease to be enforceable by or against the Corporation.

Concession, etc., to be deemed to have been granted to the Company.

5. With effect from the appointed day, all fiscal and other concessions, licences, benefits, privileges and exemptions granted to the Corporation in connection with the affairs and business of the Corporation under any law for the time being in force shall be deemed to have been granted to the Company.

Tax exemption or benefit to continue to have effect.

6. (*1*) Where any exemption from, or any assessment with respect to, any tax has been granted or made or any benefit by way of set off or carry forward of any unabsorbed depreciation or investment allowance or other allowance or loss has been extended or is available to the Corporation under the Income-tax Act, 1961, such exemption, assessment or benefit shall continue to have effect in relation to the Company. 13 of 1961.

(*2*) Where any payment made by the Corporation is exempt from deduction of tax at source under any provision of the Income-tax Act, 1961, such exemption will continue to be available as if the provisions of the said Act made applicable to the Corporation were operative in relation to the Company. 13 of 1961.

(*3*) The transfer and vesting of the undertaking or any part thereof in terms of section 3 shall not be construed as a transfer within the meaning of the Income-tax Act, 1961 for the purposes of capital gains. 3 of 1961.

Guarantee to be operative.

7. Any guarantee given for or in favour of the Corporation with respect to any loan, lease finance or other assistance shall continue to be operative in relation to the Company.

Provisions in respect of officers and other employees of Corporation.

8. (*1*) Every officer or other employee of the Corporation (except Director of the Board, Chairman or Magaging Director) serving in the employment immediately before the appointed day shall, in so far as such officer or other employee is employed in connection with the undertaking which has vested in the Company by virtue of this Ordinance, become, as from the appointed day, an officer or, as the case may be, other employee of the Company and shall held his office or service therein by the same tenure at the same remuneration, upon the same terms and conditions, with the same obligations and with the same rights and privileges as to leave, leave fare concession, welfare scheme, medical benefit scheme, insurance, provident fund, other funds, retirement, voluntary retirement, gratuity and other benefits as he would have held under the Corporation if its undertaking had not vested in the Company and shall continue to do so as an officer or, as the case may be, other employee of the Company or until the expiry of a period of six months from the appointed day if such officer or other employee opts not to continue to be the officer or other employee of the Company within such period.

(*2*) Where an officer or other employee of the Corporation opts under sub-section (*1*) not to be in employment or service of the Company, such officer or other employee shall be deemed to have resigned.

(*3*) Notwithstanding anything contained in the Industrial Disputes Act, 1947 or in any other law for the time being in force, the transfer of the services of any officer or other employee of the Corporation to the Company shall not entitle such officer or other employee to any compensation under this Ordinance, or under any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority. 14 of 1947.

(*4*) The officers and other employees who have retired before the appointed day from the service of the Corporation and are entitled to any benefits, rights or privileges shall be entitled to receive the same benefits, rights or privileges from the Company.

(*5*) The trust of the provident fund or the gratuity fund of the Corporation and any other bodies created for the welfare of officers or employees would continue to discharge their functions in the Company as was being done hitherto in the Corporation and any tax exemption granted to the provident fund or the gratuity fund would continue to be applied to the Company.

(*6*) Notwithstanding anything contained in this Ordinance or in the Companies Act, 1956 or in any other law for the time being in force or in the regulations of the Corporation, no Director of the Board, Chairman, Managing Director or any other person entitled to manage the whole or substantial part of the business and affairs of the Corporation shall be entitled to any compensation against the Corporation or the Company for the loss of office or for the premature termination of any contract of management entered into by him with the Corporation. 1 of 1956.

Act 18 of 1891 to apply to the books of the Company.

9. The Company shall be deemed to be a bank for the purposes of the Bankers' Books Evidence Act, 1891.

Shares, bonds and debentures to be deemed to be approved securities.

10. Notwithstanding anything contained in any other law for the time being in force, the shares, bonds and debentures of the Company shall be deeemed to be approved securities for the purposes of the Indian Trusts Act, 1882, the Insurance Act, 1938 and the Banking Regulation Act, 1949. 2 of 1882. 4 of 1938. 10 of 1949.

Repeal and saving of Act 15 of 1948.

11. (*1*) On the appointed day, the Industrial Finance Corporation Act, 1948 shall stand repealed.

(*2*) Notwithstanding the repeal of the Industrial Finance Corporation Act, 1948, the Company shall, so far as may be, comply with the provisions of sections 33,34, 34A, 35 and 43 of the Act so repealed for any of the purposes related to the annual accounts of the Corporation. 15 of 1948.

Repeal and saving of Ord. 17 of 1992.

12. (*1*) The Industrial Finance Corporation (Transfer of Undertaking and Repeal) Ordinance, 1992 is hereby repealed.

(2) Notwithstanding the repeal of the Industrial Finance, Corporation (Transfer of Undertaking and Repeal) Ordinance, 1992, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Ordinance. 17 of 1992.

SHANKER DAYAL SHARMA,
President.

K. L. MOHANPURIA,
Secy. to the Govt. of India.

By order and in the name of the Governor of Gujarat,

B. K. SHAH,
Secretary to Government.

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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, 20th March, 1993.

No. RP/21/93/Ord.6/93/53/Research/.—The following Ordinance promulgated by the President and published in the Gazette of India, Extra-ordinary, Part-II, Section 1, dated the 2nd January, 1993 is republished for general information.

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 2nd January, 1993/Pausa 12, 1914 (*Saka*)

THE MULTIMODAL TRANSPORTATION OF GOODS ORDINANCE, 1993.

No. 6 OF 1993.

Promulgated by the President in the Forty-third Year of the Republic of India.

An Ordinance to provide for the regulation of the multimodal transportation of goods, from any place in India to place outside India, on the basis of a multimodal transport contract and for matters connected therewith or incidental thereto.

WHEREAS the Multimodal Transportation of Goods Ordinance, 1992 to provide for the aforesaid matters was promulgated by the President on the 16th day of October, 1992.

AND WHEREAS the Multimodal Transportation of Goods Bill, 1992 was introduced in the Council of States to replace the said Ordinance, and the said Bill has been passed by the Council of States and is pending in the House of the People;

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AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution the President is pleased to promulgate the following Ordinance:—

CHAPTER I

PRELIMINARY

Short, title extent and Commencement.

1. (*1*) This Ordinance may be called the Multimodal Transportation of Goods Ordinance, 1993.

(*2*) It extends to the whole of India except the State of Jammu and Kashmir.

(*3*) It shall be deemed to have come into force on the 16th day of October, 1992.

Definitions.

2. In this Ordinance, unless the context otherwise requires,—

(*a*) "carrier" means a person who is engaged in the business of transporting for hire goods by road, rail, inland waterways or sea;

(*b*) "competent authority" means any person or authority authorised by the Central Government by notification in the Official Gazette, to perform the functions of the competent authority under this Ordinance;

(*c*) "consignee" means the person named as consignee in the multimodal transport contract;

(*d*) "consignment" means the goods entrusted to a multimodal transport operator for multimodal transportation;

(*e*) "consignor" means the person, named in the multimodal transport contract as consignor, by whom or on whose behalf the goods covered by such contract are entrusted to a multimodal transport operator for multimodal transportation;

(*f*) "delivery" means,—

(*i*) in the case of a negotiable multimodal transport document, delivering of the consignment to, or placing the consignment at the disposal of, the consignee or any other person entitled to receive it;

(*ii*) in the case of non-negotiable multimodal transport document, delivering of the consignment to, or placing the consignment at the disposal of, the consignmnet or any person authorised by the consignee to accept delivery of the consignment on his behalf;

(*g*) "endorsee" means the person in whose favour an endorsement is made, and in the case of successive endorsements, the person in whose favour the last endorsement is made ;

(*h*) "endorsement" means the signing by the consignee or the endorsee after adding a direction on a negotiable multimodal transport document to pass the property in the goods mentioned in such document to a specified person;

(*i*) "goods" includes—

(*I*) containers, pallets or similar articles of transport used to consolidate goods; and

(*II*) animals;

(*j*) "mode of transport" means carriage of goods by road, rail, inland waterways or sea;

(*k*) "multimodal transportation" means carriage of goods by two or more modes of transport from the place of acceptance of the goods in India to a place of delivery of the goods outside India;

(l) "multimodal transport contract" means a contract entered into by the consignor and the multimodal transport operator for multimodal transportation;

(*m*) "multimodal transport operator" means any person who—

(*i*) concludes a multimodal transport contract on his own behalf or hrough another person acting on his behalf;

(*ii*) acts as principal, and not as an agent either of the consignor or of the carrier participating in the multimodal transportation, and who assumes responsibility for the performance of the said contract; and

(*iii*) is registered under sub-section (*3*) of section 4;

(*n*) "negotiable multimodal transport document" means a multimodal transport document which is—

(*i*) made out to order or to bearer; or

(*ii*) made out to order and is transferable by endorsement; or

(*iii*) made out to bearer and is transferable without endorsement;

(*a*) "non-negotiable multimodal transport document" means a multimodal transport document which indicates only one named consignee;

(*p*) "prescribed" means prescribed by rules made under this Ordinance;

(*q*) "registration" means registration of multimodal transport operator under sub-section (*3*) of section 4.

CHAPTER II

REGULATION OF MULTIMODAL TRANSPORATION

No person to carry on business without registration.

3. No person shall carry on or commence the business of multimodal transportation unless he is registered under this Ordinance;

Provided that a person carrying on the business of multimodal transportation immediately before the commencement of this Ordinance, may continue to do so for a period of three months from such commencement; and if he has made an application for registration within the said period, till the disposal of such application.

Registration for multimodal transportation.

4. (1) Any person may apply for registration to the competent authority to carry on or commence the busines of multimodal transportation.

(2) An application under sub-section (*1*) shall be made in such form as may be prescribed and shall be accompanied by a fee of ten thousand rupees.

(3) On receipt of the application, the competent authority shall satisfy that the applicant fulfils the following conditions, namely:—

(*a*) (*i*) that the applicant is a shipping company or a company engaged in the business of freight forwarding in India or abroad with a minimum annual turnover of fifty lakh rupees during the immediate preceding financial year or an average annual turnover of fifty lakh rupees during the preceding three financial years as certified by a chartered accountant within the meaning of the Chartered Accountants Act, 1949; **38 of 1949.**

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(*ii*) that if the applicant is a company other than a company specified in sub-clause (*i*), the subscribed share capital of such company is not less than fifty lakh rupees;

(*b*) that the applicant has offices or agents or representatives in not less than two other countries.

and on being so satisfid register the applicant as a multimodal transport operator and grant a certificate to it to carry on or commence the business of multimodal transportation;

Provided that the competent authority may, for reasons to be recorded in writing, refuse to grant registration if it is satisfied that the applicant does not fulfil the said conditions.

(4) A certificate granted under sub-section (*3*) shall be valid for a period of one year and may be renewed from time to time for a further period of one year at a time.

(5) An application for renewal shall be made in such form as may be prescribed and shall be accompanied by a fee of two thousand rupees.

Cancellation of registration.

5 The competent authority may, if it is satisfied at any time after registration that—

(*a*) any statement in, or in relation to, any application under sub-section (*2*) of section 4 or its renewal under sub-section (*5*) of that section, is incorrect or false in any material particular; or

(*b*) any of the provisions of this Ordinance or the rules made thereunder has been contravened by the multimodal transport operator; or

(*c*) the multimodal transport operator has not entered into any multimodal transport contract during the preceding two years after his registration,

cancel by order the certificate of registration:

Provided that no such registration shall be cancelled unless the multinodal transport operator has been given a reasonable opportunity of showing cause against the proposed action.

Appeal.

6 (1) Any person aggrieved by an order made by the competent authority under section 5 may prefer an appeal to the Central Government within such period as may be prescribed.

(2) No appeal shall be admitted if it is prefered after the expiry of the prescribed period:

Provided that an appeal may be admitted after the expiry of the prescribed period if the appellant satisfies the Central Government that he had sufficient cause for not preferring the appeal within the prescribed period.

(3) Every appeal made under this section shall be made in such form and on payment of such fees as may be prescribed and shall be accompanied by a copy of the order appealed against.

(4) On receipt of any such appeal, the Central Government shall, after giving the parties a reasonable opportunity of being heard and after making such inquiry as it deems proper, make such order as it thinks fit.

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CHAPTER III

MULTIMODAL TRANSPORT DOCUMENT

Issue of multimodal transport document.

7. (1) Where the consignor and the multimodal transport operator have entered into a contract for the multimodal transportation and the multimodal transport operator has taken charge of the goods, he shall, at the option of the consignor, issue a negotiable or non-negotiable multimodal transport document.

(2) The multimodal transport document shall be signed by the multimodal transport operator or by a person duly authorised by him.

Multimodal transport document to be regarded as document of title.

8. (*1*) Every consignee named in the negotiable or non-negotiable multimodal transport document and every endorsee of such document, as the case may be, to whom the property in the goods mentioned therein shall pass, upon or by reason of such consignment or endorsement, shall have all the rights and liabilities of the consignor.

(*2*) Nothing contained in sub-section (*1*) shall prejudice or affect the right of the multimodal transport operator to claim freight from the consignor or enforce any liability of the consignee or endorsee by reason of his being such consignee or endorsee.

Contents of multimodal transport document.

9. The multimodal transport document shall contain the following particulars, namely :—

(*a*) the general nature of the goods, the leading marks necessary for identification of the goods, the character of the goods (including dangerous goods), number of packages or units and the gross weight and quantity of the goods;

(*b*) apparent condition of the goods;

(*c*) the name and principal place of business of the multimodal transport operator;

(*d*) the name of the consignor;

(*e*) the name of the consignee, if specified by the consignor;

(*f*) the place and date of taking charge of the goods by the multimodal transport operator;

(*g*) the place of delivery of the goods;

(*h*) the date or the period of delivery of the goods at the place of delivery;

(*i*) whether it is negotiable or non-negotiable;

(*j*) the place and date of its issue;

(*k*) freight payable by the consignor or the consignee, as the case may be;

(*l*) the signature of the multimodal transport operator of a person duly authorised by him;

(*m*) the intended journey route, modes of transport and places of transhipment, if known at the time of its issue;

(*n*) terms of shipment and a statement that the document has been issued subject to and in accordance with this Ordinance; and

(*o*) any other particular which the parties may agree to insert in the document, if any such particular is not inconsistent with any law for the time being in force.

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Reservation in the multimodal transport document.

10. (*1*) Where the multimodal transport operator or a person acting on his behalf knows, or has reasonable grounds to suspect, that the particulars furnished by the consinor in the multimodal transport document do not accurately represent the goods actually taken in charge, or if he has no reasonable means of checking such particulars, the multimodal transport operator or a person acting on his behalf shall insert in the multimodal transport document a reservation specifying the inaccuracies, if any, the grounds of suspicion or the absence of reasonable means of checking the particulars.

(*2*) Where the multimodal transport operator or a person acting on his behalf fails to insert the reservation in the multimodal transport document relating to the apparent condition of the goods, he shall be deemed to have accepted the goods in apparent good condition.

Evidentitiary effect of the multimodal transport document.

11. Save as provided in section 10,—

(*a*) the multimodal transport document shall be *prima facie* evidence of the fact the multimodal transport operator has taken charge of the goods as described in the document; and

(*b*) no proof to the contrary by the multimodal transport operator shall be admissible if the multimodal transport document is issued in negotiable form and has been transmitted to the consignee or transferred by the consignee to a third party, if the consignee or the third party has acted in good faith relying on the description of the goods in the document.

Responsibility of the consiginor.

12. (*1*) The consignor shall be deemed to have guaranteed to the multimodal transport operator the adequacy and accuracy, at the time the multimodal transport operator takes charge of the goods, of the particulars referred to in clauses (*a*) and (*b*) of section 9 as furnished by the consignor for insertion in the multimodal transport document.

(*2*) The consignor shall indemnify the multimodal transport operator against loss resulting from inadequacy or inaccuracy of the particulars referred to in sub-section (*1*).

(*3*) The right of the multimodal transport operator under sub-section (*2*) shall in no way limit his liability under the multimodal transport contract to any person other than the consignor.

CHAPTER IV

RESPONSIBILITIES AND LIABILITIES OF THE MULTY MODAL TRANSPORT OPERATOR

Basis of liability of multimodal transport operator.

13. (*1*) The multimodal transport operator shall be liable for loss resulting from—

(*a*) any loss of, or damage to, the consignment;

(*b*) delay in delivery of the consignment and any consequential loss or damage arising from such delay.

where such loss, damage or delay in delivery took place while the consignment was in his charge:

Provided that the multimodal transport operator shall not be liable if he proves that no fault or neglect on his part or that of his servants or agents had caused or contributed to such loss, damage or delay in delivery :

Provided further that the multiomodal transport operator shall not be liable for loss or damage arising out of delay in delivery unless the consignor had made a declaration of interest in timely delivery which has been accepted by the multimodal transport operator.

Explanation.—For the purposes of this sub-section "delay in delivery" shall be deemed to occur when the consignment has not been delivered within the time expressly

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agreed upon or, in the absence of such agreement, within a reasonable time required by a diligent multimodal transport operator, having regard to the circumstances of the case, to effect the delivery of the consignment.

(2) If the consignment has not been delivered within ninety consecutive days following the date of delivery expressly agreed upon or the reasonable time referred in the *Explanation* to sub-section (1), the claimant may treat the consignment as lost.

Limits of liability when the nature and value the consignment have not been declared and stage of transport where loss or damage occurred is not known.

14. (*1*) Where a multimodal transport operator becomes liable for any loss of, or damage to, any consignment, the nature and value where of have not been declared by the consignor before such consignment has been taken in charge by the multimodal transport operator and the stage of transport at which such loss or damage occurred is not known, then the liability of the multimodal transport operator to pay compensation shall not exceed two Special Drawing Rights per kilogram of the gross weight of the consignment lost or damaged or 666.67 Special Drawing Rights per package or unit lost or damaged, whichever is higher.

Explanation.—For the purposes of this sub-section, where a container, pallet or similar article of transport is loaded with more than one package or unit, the packages or units enumerated in the multimodal transport document, as packed in such container, pallet or similar article of transport shall be deemed as packages or units.

(*2*) Notwithstanding anything contained in sub-section (*1*), if the multimodal transportation does not, according to the multimodal transport contract, include carriage of goods by sea or by inland waterways, the liability of the multimodal transport operator shall be limited to an amount not exceeding 8.33 Special Drawing Rights per kilogram of the gross weight of the goods lost or damaged.

Limits of liability when the nature and value of the consignment have not been declared and stage of transport where loss or damage occured is known.

15. Where a multimodal transport operator becomes liable for any loss of, or damage to, any consignment, the nature and value where of have not been declared by the consignor before such consignment has been taken in charge by the multimodal transport operator and the stage of transport at which such loss or damage occurred is known, then the limit of the liability of the multimodal transport operator for such loss or damage shall be determined in accordance with the provisions of the relevant law applicable in relation to the mode of transport during the course of which the loss or damage occurred and any stipulation in the multimodal transport contract to the contrary shall be void and unenforceable.

Liability of the multimodal transport operator in case of delay in delivery of goods under certain circumstances.

16. Where delay in delivery of the consignment occurs under any of the circumstances mentioned in the *Explanation* to sub-section (*1*) of section 13, or any consequential loss or damage arises from such delay, then the liability of the multimodal transport operator shall be limited to the freight payable for the consignment so delayed.

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Assessment of compensation.

17. (*1*) Assessment of compensation for loss of, or damage to, the consignment shall be made with reference to the value of such consignment at the place where, and the time at which such consignment is delivered to the consignee or at the place and time when, in accordance with the multimodal transport contract, it should have been delivered.

(*2*) The value of the consignment shall be determined according to the current commodity exchange price, or, if there is no such price, according to the current market price, or if the current market price is not ascertainable, with reference to the normal value of a consignment of the same kind and quantity.

Loss of right of multimodal transport operator to limit liability.

18. The multimodal transport operator shall not be entitled to the benefit of limitation of liability under any of the provisions of this Chapter if it is proved that the loss, damage or delay in delivery of consignment resulted from an act or omission of the multimodal transport operator with intent to cause such loss, damage or delay or recklessly and with knowledge that such loss, damage or delay would probably result.

Limit of Lability of miltimodal transport operator for total loss of goods

19. The multimodal transport operator shall not, in any case, be liable for an amount greater than the liability for total loss of goods for which a person will be entitled to make a claim against him under the privisions of this Ordinance.

Notice of loss of or damage to goods.

20. (*1*) The delivery of the consignment to the consignee by the multimodal transport operator shall be treated as *prima facie* evidence of delivery of the goods as described in the multimodal transport document unless notice of the general nature of loss of, or damage to, the goods is given in writting, by the consignee to the multimodal transport operator at the time of handing over of the goods to the consignee.

(*2*) Where the loss or damage is not apparent, the provisions of sub-section (*1*) shall apply unless notice in writing is given by the consignee of the loss of, or damage to, the goods within six consecutive days after the day when the goods were handed over to the consignee.

CHAPTER V

MISCELLANEOUS

Special provision for dangerous goods.

21. (*1*) Where the consignor hands over the prescribed dangerous goods to a multimodal transport operator or any person acting on behalf of such operator, the consignor shall infrom him of the nature of the dangerous goods and, if necessary, the precautions to be taken while transporting such goods.

(*2*) Where the consignor fails to inform the multimodal transport operator or the other person acting on behalf of such operator of the nature of the dangerous goods and such operator or person does not otherwise have knowledge of the dangerous goods—

(*a*) the consignor shall be liable to the multimodal transport operator or the other person acting on behalf of such operator for all loss resulting from the multimodal trasportaton of such goods; and

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(*b*) the goods may at any time be unloaded, destoryed or rendered innoncuous, as the circmustances may require, without payent of compensation.

Right of multi-modal transport operator to have lien on goods and documents.

22. (*1*) The multimodal transport operator who has not been paid the amount of consideration stipulated inthe multimodal transport contract shall have a lien on the consignment and on the documents in his possesssion.

(*2*) Notwithstanding anything contained in sections 13, 16 and 18, the period during which the goods are in possession of the multimodal trasport operator in exercise of his right of lien referred to in sub-section (*1*) shall not be included for the purposes of calculating the time of delay under any of those sections.

23. Notwithstanding anyting contained in any other provision of this Ordinance, it shall be lawful for the parties to the multimodal transport contract to include in the multimodal transport document any provision relating to genral average.

Explanation.—For the purposes of this section "general average" means loss, damage or expense reasonably incurred in order to avert danger to property in common peril and in the common interest involved in the multimodal transportation.

Limitation on action.

24. The multimodal transport operator shall not be liable under any of the provisions of this Ordinance unless action against him is brought within nine months of—

(*a*) the date of delivery of the Goods, or

(*b*) the date when the goods should have been delivered, or

(*c*) the date on and from which the party entitled to receive delivery of the goods has the right to treat the goods as lost under sub section (*2*) of section 13.

Jurisdiction for on action.

25. Any party to the multimodal transport contract may institute an action in a court which is competent and within the jurisdiction of which is situated one of the following places, namely :-

(*a*) the principal place of business, or, in the absence thereof, the habitual residence, of the defendant; or

(*b*) the place where the multimodal transport contract was made, provided that the defendant has a place of business, branch or agency at such place; or

(*c*) the place of taking charge of the goods for multimodal transportation or the place of delivery thereof; or

(*d*) any other place specified in the multimodal transport contract and avidenced in the multimodal transport document.

Arbitration.

26. (*1*) The parties to a multimodal transport contract may provide therein that any dispute which may arise in relation to multimodal transportion under the provisions of this Ordinance shall be referred to arbitration.

(*2*) The arbitration proceeding may be instituted at such place or in accordance with such procedure as may be specified in the multimodal transport document.

Delegation of power.

27. The Central Government may, by notification in the Official Gazette, direct that any power exercisable by it under this Ordinance, except the power under section 30, shall in such circumstances and subject to such conditions, if any, as may be specified therein, be exercisable also by such officer or authority as may be specified in the notification.

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Multimodal transport contract to be made in accordance with this Ordinance.

28. No person registered as a multimodal transport operator shall enter into any contract for multimodal transportation except in accordance with the provisions of this Ordinance and any contract, to the extent it is inconsistent with the said provisions, shall be void and unenforceable.

Ordinance to override other enactment.

29. The provisions of this Ordinance shall have effect nothwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Ordinance.

Power to make rules.

30. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carying out the provisions of this Ordinance.

(*2*) In particular, and without prejudice to the generality of the foregoing provisions, such rules may provide for all or any of the following matters, namely:—

(*a*) the forms in which applications shall be made under section 4,

(*b*) the period within which appeal shall be preferred under sub-section (*1*) of section 6;

(*c*) the form in which an appeal shall be preferred under section 6 and the amount of fee payable in respect of such appeal;

(*d*) dangerous goods for the purpose of section 21;

(*e*) any other matter which is to be, or may be, prescribed.

(*3*) Every rule made under this Ordinance shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Amendment of certain enactment.

31. On and from the date of the commencement of this Ordinance, the enactments specified in Parts I, II and III of the Schedule shall be amended in the manner specified therein.

Repeal and savings.

32. (*1*) The Multimodal Transportation of Goods Ordinance, 1992 is hereby repealed. **Ord. 18 of 1992.**

(*2*) Notwithstanding such repeal, anything done or any action taken under the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of this Ordinance.

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THE SCHEDULE

(*See* section 31)

AMENDMENT OF CERTAIN ENACTMENTS

PART I

Amendments of the Carriers Act, 1865

(3 of 1865)

In the Carriers Act, 1865,—

(*a*) in section 2, in the definition relating to " Common carrier" after the words "engaged in the business of", the words "transporting property under multimodal transport document or of" shall be inserted;

(*b*) in sections 6, 7 and 8, for the words "property delivered", the words and brackets "property (including container, pallet or similar article of transport used to consolidate goods) delivered" shall, respectively, be substituted;

(*c*) in sections 9 and 10, for the words "goods entrusted", the words and brackets "goods (including containers, pallets or similar article of transport used to consolidate goods) entrusted" shall, respectively, be substituted.

PART II

Amendment to the Indian Carriage of Goods by Sea Act, 1925

(26 of 1925)

In the Indian Carriage of Goods by Sea Act, 1925,—

(*a*) in the Preamble, after the second paragraph, the following paragraph shall be inserted, namely:—

"AND WHEREAS the said rules were amended by the Protocol signed at Brussels on 23rd February, 1968 and by the Protecol signed at Brussels on 21st December, 1979;";

(*b*) in section 7, in sub-section (*1*), for the words and figures "sections 331 and 352", the words, figures and letters "section 331 and Part XA" shall be substituted;

(*c*) in the Schedule,—

(*i*) in Article I, in clause (*c*), after the word "merchandises,", the words "containers, pallets or similar article of transport used to consolidate goods if supplied by the shipper," shall be inserted;

(*ii*) in Article III,—

(*1*) in paragraph 4, the following shall be added at the end, namely:—

"(However, proof to the contrary shall not be admissible when the bill of lading has been transferred to a third party acting in good faith.";

(*2*) in paragraph 6, in the third sub-paragraph, the following shall be added at the end, namely:—

"This period may, however, be extended if the parties so agree after the cause of action has arisen:

Provided that a suit may be brought after the expiry of the period of one year referred to in this sub-paragraph within a futther period of notmore than three months as allowed by the court.";

(*iii*) in Article IV, in paragraph 5,—

(*1*) for the words and figures "amount exceeding 100 per package or unit", the words and figures "amount exceeding 666.67 Special Drawing Rights per package or unit or two Special Drawing Rights per kilogram of gross weight of the goods lost or damaged, whichever is higher" shall be substituted;

(*2*) after the first sub-paragraph, the following sub-paragraphs shall be inserted, namely:—

"Where a container, pallet or similar article of transport is used to consolidate goods, the number of packages or units enumerated in the bill of lading and as packed in such article of transport shall be deemed to be the number of packages or units for the purposes of this paragraph as far as these packages or units are concerned.

Neither the carrier nor the ship shall be entitled to the benefit of limitation of liability provided for in this paragraph if it is proved that the damage resulted from an act or omission of the carrier done with intent to cause damage, or recklessly and with knowledge that damage would probably result.

Where the nature or value of the goods has been knowingly misstated by the shipper in the bill of lading, the liability of the carrier or ship shall not exceed the value so stated.".

PART III

Amendment to the Sale of Goods Act, 1930

(3 of 1930)

In the Sale of Goods Act, 1930, in section 2, in clause (*4*), after the words "railway receipt,", the words "multimodal transport document," shall be inserted.

SHANKER DAYAL SHARMA,
President.

K. L. MOHANPURIA,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

B. K. SHAH,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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Extra No. 7

REGISTERED NO. G/GNR/2

The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXXIV]   SATURDAY, MARCH 20, 1993/PHALGUNA 29, 1914

Separate paging is given to this Part in order that it may be filed as a separate Compilation.

PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, 20th March, 1993.

No. RP/22/93/Ord.7/93/46./Research –The following Ordinance promulgated by the President and published in the Gazette of India, Extra-ordinary, Part-II, Section 1, dated the 2nd January, 1993, is republished for general information:–

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 2nd January, 1993/Pausa 12, 1914 (*Saka*)

THE WILD LIFE (PROTECTION) AMENDMENT ORDINANCE, 1993

No. 7 of 1993

Promulgated by the President in the Forty-third year of the Republic of India.

An Ordinance further to amend the Wild Life (Protection) Act, 1972.

Whereas the Wild Life (Protection) Amendment Ordinance 1992 to provide for the aforesaid matter was promulgated by the President on the 23rd day of October, 1992.

And Whereas the Wild Life Protection (Amendment) Bill, 1992 was introduced in the House of the People to replace the said Ordinance, but has not been passed.

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AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance.:-

Short title and commencement.

1. (*1*) This Ordinance may be called the Wild Life (Protection) Amendment Ordinance, 1993.

(*2*) It shall be deemed to have come into force on the 4th day of August, 1992.

Amendment of section 38H of Act 53 of 1972.

2. In the Wild Life (Protection) Act, 1972 (hereinafter referred to as the principal Act), in the proviso to sub-section (*1*) of Section 38H, for the words "six months from the date of such commencement", the words "eighteen months from the date of such commencement" shall be substituted.

Repeal and saving.

3. (*1*) The Wild Life (Protection) Amendment Ordinance, 1992 is hereby repealed. **Ord. 20 of 1992.**

(*2*) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Ordinance.

SHANKER DAYAL SHARMA,
President.

K. L. MOHANPURIA,
Secy. to the Govt. of India.

By order and in the name of the Governor of Gujarat,

B. K. SHAH,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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Extra No. 8 REGISTERED NO. G/GNR/2.

The Gujarat Government Gazette

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Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, Dated the 20th March, 1993.

No. RP/23/93/ord. 8/93/51/Research/.—The following Ordinance promulgated by the President and published in the Gazette of India, Extra-ordinary, Part-II, Section 1, dated the 7th January, 1993, is republished for general information :—

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 7th January, 1993/Pausa 17, 1914 (Saka)

THE ACQUISITION OF CERTAIN AREA AT AYODHYA ORDINANCE, 1993.

No. 8 of 1993.

Promulgated by the President in the Forty-third Year of the Republic of India.

An Ordinance to provide for the acquisition of certain area at Ayodhya and for matters connected therewith or incidental thereto.

WHEREAS there has been a long-standing dispute relating to the structure (including the premises of the inner and outer courtyards of such structure), commonly known as the Ram Janma Bhumi-Babri Masjid, situated in village Kot Ramchandra in Ayodhya, in Pargana Haveli Avadh, in tehsil Faizabad Sadar. in the district of Faizabad of the State of Uttar Pradesh;

AND WHEREAS the said dispute has affected the maintenance of public order and harmony between different communities in the country;

AND WHEREAS it is necessary to maintain public order and to promote communal harmony and the spirit of common brotherhood amongst the people of India;

AND WHEREAS with a view to achieving the aforesaid objectives, it is necessary to acquire certain areas in Ayodhya;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

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NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance :—

CHAPTER I

PRELIMINARY

Short title and commencement.

1. (*1*) This Ordinance may be called the Acquisition of Certain Area at Ayodhya Ordinance, 1993.

(*2*) It shall come into force at once.

Definitions.

2. In this Ordinance, unless the context otherwise requires,—

(*a*) "area" means the area (including all the buildings, structures or other properties comprised therein) specified in the Schedule;

(*b*) "authorised person" means a person or body of person or trustees of any trust authorised by the Central Government under section 7;

(*c*) "Claims Commissioner" means the Claims Commissioner appointed under sub-section (*2*) of section 8;

(*d*) "prescribed" means prescribed by rules made under this Ordinance.

CHAPTER II

ACQUISITION OF THE AREA IN AYODHYA.

Acquisition of rights in respect of certain area.

3. On and from the commencement of this Ordinance, the right, title and interest in relation to the area shall, by virtue of this Ordinance, stand transferred to, and vest in, the Central Government.

General effect of vesting.

4. (*1*) The area shalll be deemed to include all assets, rights, leaseholds, powers, authority and privileges and all property, movable and immovable, including lands, buildings, structures, shops of whatever nature or other properties and all other rights and interests in, or arising out of, such properties as were immediately before the commencement of this Ordinance in the ownership, possession, power or control of any person or the State Government of Uttar Pradesh, as the case may be, and all registers, maps, plans, drawings and other documents of whatever nature relating thereto.

(*2*) All properties aforesaid which have vested in the Central Government under section 3 shall, by force of such vesting, be freed and discharged from any trust, obligation, mortgage, charge, lien and all other encumbrances affecting them and any attachment, injunction, decree or order of any court or tribunal or other authority restricting the use of such properties in any manner or appointing any receiver in respect of the whole or any part of such properties shall cease to have any effect.

(*3*) If, on the commencement of this Ordinance, any suit, appeal or other proceeding in respect of the right, title and interest relating to any property which has vested in the Central Government under section 3, is pending before any court, tribunal or other authority, the same shall abate.

Duty of person or State Government in charge of the management of the area to deliver all assets, etc.

5. (*1*) The Central Government may take all necessary steps to secure possession of the area which is vested in that Government under section 3.

(*2*) On the vesting of the area in the Central Government under section 3, the person or State Government of Uttar Pradesh, as the case may be, in charge of the management of the area immediately before such vesting shall be bound to deliver to the Central Government or the authorised person, all assets, registers and other documents in their custody relating to such vesting or where it is not practicable to deliver such registers or documents, the copies of such regisers or documents authenticated in the prescribed manner.

Power of Central Government to direct vesting of the area in another authority or body or trust.

6. (*1*) Notwithstanding anything contained in sections 3, 4, 5 and 7, the Central Government may, if it is satisfied that any authority or other body, or trustees of any trust, set up on or after the commencement of this Ordinance is or are willing to comply with such terms and conditions as that Government may think fit to impose, direct by notification in the *Official Gazette*, that the right, title and interest or any of them in relation to the area or any part thereof, instead of containing to vest in the Central Government, vest in that authority or body or trustees of that trust either on the date of the notification or on such later date as may be specified in the notification.

(*2*) When any right, title and interest in relation to the area or part thereof vest in the authority or body or trustees referred to in sub-section (*1*), such rights of the Central Government in relation to such area or part thereof, shall, on and from the date of such vesting, be deemed to have become the rights of that authority or body or trustees of that trust.

(*3*) The provisions of sections 4, 5, 7 and 11 shall, so far as may be, apply in relation to such authority or body or trustees as they apply in relation to the Central Government and for this purpose references therein to the "Central Government" shall be construed as references to such authority or body or trustees.

CHAPTER III

MANAGEMENT AND ADMINISTRATION OF PROPERTY

Management of property by Government.

7. (*1*) Notwithstanding anything contained in any contract or instrument or order of any court, tribunal or other authority to the contrary, on and from the commencement of this Ordinance, the property vested in the Central Government under section 3 shall be managed by the Central Government or by a person or body of persons or trustees of any trust authorised by that Government in this behalf.

(*2*) In managing the property vested in the Central Government under section 3, the Central Government or the authorised person shall ensure that the position existing before the commencement of this Ordinance in the area on which the structure (including the premises of the inner and outer courtyards of such structure), commonly known as the Ram Janma Bhumi-Babri Masjid, stood in village Kot Ramchandra in Ayodhya, in Pargana Haveli Avadh, in tehsil Faizabad Sadar, in the district of Faizabad of the State of Uttar Pradesh is maintained.

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CHAPTER IV

MISCELLANEOUS

Payment of amount.

8. *(1)* The owner of any land, building, structure or other property comprised in the area shall be given by the Central Government, for the transfer to and vesting in that Government under section 3 of that land, building, structure or other property, in cash an amount equivalent to the market value of the land, building, structure or other property.

(2) The Central Government shall, for the purpose of deciding the claim of the owner or any person having a claim against the owner under sub-section *(1)*, by notification in the *Officnal Gazette*, appoint a Claims Commissioner.

(3) The Claims Commissioner shall regulate his own procedure for receiving and deciding the claims.

(4) The owner or any person having a claim against the owner may make a claim to the Claims Commissioner within a period of ninety days from the date of commencement of this Ordinance.

Provided that if the Claims Commissioner is satisfied that the claimant was prevented by sufficient cause from prefering the claim within the said period of ninety days, the Claims Commissioner may entertain the claim within a further period of ninety days and not thereafter.

Ordinance to override all other enactments.

9. The provisions of this Ordinance shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having effect by virtue of any law other than this Ordinance or any decree or order of any court, tribunal or other authority.

Penalties.

10. Any person who is in charge of the management of the area and fails to deliver to the Central Government or the authorised person any asset, register or other document in his custody relating to such area or, as the case may be, authenticated copies of such register or document, shall be punishable with imprisonment for a term which may extend to three years or with fine which may extent to ten thousand rupees, or with both.

Protection of action taken in good faith.

11. No suit, prosecution or other legal proceeding shall lie against the Central Government or the authorised person or any of the officers or other employees of that Government or the authorised person for anything which is in good faith done or intended to be done under this Ordinance.

Power to make rules.

12. *(1)* The Central Government may, by notification in the *Official Gazette*, make rules to carry out the provisions of this Ordinance.

(2) Every rule made by the Central Government under this Ordinance shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

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THE SCHEDULE

[*See* Section 2(a)]

DESCRIPTION OF THE AREA

Sr. No.	Name of Village/ Pargana/Tehsil/ District/State	Plot No.	Area to be acquired			
			Bigha	Biswa	Biswansi	Kuch
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	**Village Kot Ramchandra, Pargana Haveli Avadh, tehsil Faizabad Sadar. District Faizabad, Uttar Pradesh.**	143	0	9	0	
		144	0	7	0	
		145	0	8	0	
		146	1	6	7	
		147 (part) Bounded by plot No. 146 on South, Plot No. 143 on West and Road/plot No. 142 on North.	2	14	0	
		158	0	4	0	
		159	0	13	0	
		160	3	11	4	6
		161	0	18	0	
		162	1	8	7	
		168	1	2	0	
		169	1	7	0	
		170	0	8	0	
		171	1	7	0	
		172	2	7	0	
		173	0	18	0	
		174	0	3	0	
		175	0	6	0	
		176	1	2	0	
		177	0	16	0	
		178	0	10	0	
		179	0	14	0	
		180	0	14	5	
		181	0	13	10	
		182	0	7	5	
		183	0	7	5	
		184	0	6	0	
		185	0	7	5	
		186	0	6	10	
		187	0	7	0	
		188	0	18	15	
		189	0	14	0	
		190	0	4	0	
		191	4	6	14	
		192	0	7	0	
		193	0	12	0	
		194	4	19	0	
		195	0	5	0	
		196	0	5	0	
		197	0	5	0	
		198	0	3	0	
		199	0	12	0	
		200	2	0	0	

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(1)	(2)	(3)	(4)	(5)	(6)	(7)
		204 (part) Bounded by plot No. 222 on South, plot No. 205 on West and plot No. 231 on East.	0	3	0	
		205	0	10	0	
		206	0	5	0	
		207	0	19	0	
		208	0	5	0	
		209	1	11	0	
		210	0	8	0	
		211	0	13	0	
		212	0	4	14	
		213	1	19	15	
		214	0	6	0	
		215	0	2	5	
		216	0	6	0	
		217	0	11	0	
		218	0	3	0	
		219	1	6	5	
		220	0	12	0	
		221	1	2	15	
		222	0	5	7	
		223	5	6	0	
		224	1	0	0	
		225	0	11	15	
		226	0	10	5	
		227	0	7	5	
		228	0	5	0	
		229	0	11	10	
		230	0	2	10	
		231	1	1	10	
		232	0	2	0	
		233	0	2	0	
		234	1	12	0	
		235	0	10	0	
		236	0	4	0	
		237	0	1	0	
		238	1	6	0	
		239	2	1	0	
		242	1	0	0	
		244	0	14	10	
		246 (part) Bounded by plot No. 238 on the South, Plot No. 239 on the West and Plot No. 244 on the North.	0	18	0	
			71	18	3	6

(1)	(2)	(3)	(4)	(5)	(6)	(7)
2.	**Village Avadhkhas, Pargana Haveli Avadh, tehsil Faizabad Sadar, District Faizabad, Uttar Pradesh.**	1104	0	11	17	
		1105	0	7	14	
		1106	0	6	2	
		1107	0	14	14	
		1108	0	4	3	
		1109	0	3	0	
		1110	0	4	5	
		1111	0	12	15	
		1112	0	5	8	
		1113	0	5	10	
		1114	0	0	10	
		1115	0	1	10	
		1116	0	3	10	
		1117	0	9	12	
		1118	1	1	17	
		1119	0	7	14	
		1120	0	13	15	
		1121	0	3	0	
		1122	0	8	0	
		1123	0	8	0	
		1124	0	9	10	
		1125	0	6	6	
		1126	0	4	15	
		1127	0	11	4	
		1128	1	12	6	
		1129	0	5	9	
		1130	0	5	0	
		1132	1	3	5	
		1133	0	4	15	
		1134	0	4	0	
		1135	0	1	0	
		1136	0	9	0	
		1143	0	4	5	
		1144	0	5	15	
		1145	0	0	15	
		1146	0	3	0	
		1147	0	5	0	
		1148	0	7	15	
		1149	0	6	10	
		1166 (part) Bounded by plot No. 1203 on East, plot No. 1151 on West and plot No. 1167 on South	0	6	0	
		1206	0	7	0	
		1210	0	1	5	
		1211	0	2	5	
		1212	0	11	5	
		1213	0	2	10	
		1214	0	7	0	
		1215	0	0	15	
		1216	0	0	15	
		1217	0	3	5	
		1218	0	4	10	
		1219	0	5	0	

(1)	(2)	(3)	(8)	(5)	(6)	(7)
		1220	0	7	5	
		1221	0	11	10	
		1222	0	4	0	
		1223	0	1	15	
		1225	0	12	15	
		1226	0	8	10	
		1227	0	7	15	
		1228	0	4	15	
		1229	0	1	0	
		1230	0	13	5	
		1231	0	7	5	
		1232	0	1	6	
		1233	0	4	15	
		1234	0	7	5	
		1235	0	1	6	
		1236	0	2	5	
		1237	0	9	10	
		1238	0	1	18	
		1239	0	1	10	
		1240	0	8	15	
		1241	0	1	10	
		1242	0	1	15	
		1243	0	2	0	
		1247 (part) Bounded by plot No. 1248 on North· plot No, 1246 on South and plot No. 1291 on East/Road.	0	5	0	
		1248	1	7	10	
		1249	0	0	13	
		1250	0	7	7	
		1251	0	8	0	
		1252	0	9	0	
		1253	0	12	10	
		1254	0	4	0	
		1255	0	2	0	
		1256	0	2	0	
		1257	0	2	10	
		1258	0	2	5	
		1259	0	1	10	
			27	00	11	
3.	**Vilage Jalwanpur. Pargana Haveli Avadh tehsil Faizabad Sadar. District Faizabad. Uttar Prsesh.**	1	0	3	5	
		2	1	1	0	
		3	0	0	5	
		4	1	9	15	
		5	0	0	10	
		6	0	19	00	
		7	0	2	15	
		8	0	4	15	

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(1)	(2)	(3)	(4)	(5)	(6)	(7)
		9	0	10	10	
		10	0	0	10	
		11	0	3	0	
		12	0	14	5	
		13	0	10	0	
		14	0	0	10	
		15	0	15	15	
		16	0	8	15	
		17	0	3	15	
		18	0	6	5	
		19	0	7	5	
		27	1	6	0	
			9	7	15	

SHANKER DAYAL SHARMA,
President.

A. C. C. UNNI,
Additional Secretary to the Govt. of India.

By order and in the name of the Governor of Gujarat,

B. K. SHAH,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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Extra No. 9

REGISTERED NO. G/GNR/2

The Gujarat Government Gazette

EXTRAORDINARY

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Separate paging is given to this Part in order that it may be filed as a separate Compilation

PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, 20th March, 1993.

No. RP/24/93/Ord. 9/93/50/Research.—The following Ordinance promulgated by the President and published in the Gazette of India, Extra-ordinary, Part-II, Section 1, dated the 8th January, 1993 is republished for general information:—

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 8th January, 1993/Pausa 18, 1914 (Saka)

THE FOREIGN EXCHANGE REGULATION (AMENDMENT) ORDINANCE, 1993

No. 9 OF 1993

Promulgated by the President in the Forty-third Year of the Republic of India.
An Ordinance further to amend the Foreign Exchange Regulation Act, 1973.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

Short title and Commencement.

1. (*1*) This Ordinance may be called the Foreign Exchange Regulation (Amendment) Ordinance, 1993.

(2) It shall come into force at once.

Amendment of long title.

2. In the Foreign Exchange Regulation Act, 1973 (hereinafter referred to as the principal Act), in the long title, the words "and bullion" shall be omitted.

46 of 1978.

Omission of sections 11 and 12.

3. Sections 11 and 12 of the principal Act shall be omitted.

Amendment of section 13.

4. In section 13 of the principal Act,—

(*a*) in sub-section (*1*), the word "any gold or silver or" shall be omitted;

(*b*) in sub-section (2), the words "gold, jewellery or precious stones or" shall be omitted.

Ommission of sections 15 and 17

5. Sections 15 and 17 of the principal Act shall be omitted.

Amendment of section 18.

6. In section 18 of the principal Act, after sub-section (*10*), the following *Explanation* shall be inserted, namely:—

"***Explanation.***—**For the purposes of this section "goods" includes gold, silver, jewellery** and precious stones.".

Insertion of new section 18A.

7. After section 18 of the principal Act, the following section shall be inserted, namely:—

Payment for lease, hire or other arrangement.

"18A. (*1*) No person shall, except with the general or special permission of the Reserve Bank, take or send out by land, sea or air any goods from India to any place on lease or hire or under any arrangement other than sale or disposal in any other manner of such goods.

(2) The provisions of section 18 shall, so far as may be, apply to the taking or sending out of goods under sub-section (*1*).

Amendment of section 19.

8. In section 19 of the principal Act,—

(*a*) in sub-section (*1*), clause (*c*) shall be omitted;

(*b*) in sub-section (*4*), clause (*c*) shall be omitted;

(*c*) for sub-sections (*5*) and (*6*), the following sub-sections shall be substituted, namely:—

"(*5*) Notwithstanding anything contained in any other law, no transfer of any share, bond or debenture of a company registered in India made by a person resident outside India or by a national of a foreign State to another person resident in India shall be valid unless such transfer is confirmed by the Reserve Bank on an application made to it in this behalf by the transferor or the transferee.

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(6) If the Reserve Bank is of opinion that it is necessary or expedient in the public interest so to do, it may, by general or special permission, exempt any transfer referred to in sub-section (5) or any class of such transfers from the operation of the provisions of that sub-section, subject to such conditions, if any, as may be specified in such permission.".

Ommission of sections 20 and 21.

9. Sections 20 and 21 of the principal Act shall be omitted.

Amendment of section 22.

10. In section 22 of the principal Act, the words "The Central Government may, by notification in the Official Gazette, order that" shall be omitted.

Ommission of section 23.

11. Section 23 of the principal Act shall be omitted.

Amendment of section 25.

12. In section 25 of the principal Act,—

(a) in sub-section (1), for the words "permission of the Reserve Bank" the words "general or special permission of the Reserve Bank" shall be substituted;

(b) sub-section (3) shall be omitted.

Substitution of new section for section 26.

13. For section 26 of the principal Act, the following section shall be substituted, namely :—

Certain provisions as to guarantee in respect of debt or other obligation.

"26. Except with the general or special permission of the Central Government or the Reserve Bank, no person resident in India shall give a guarantee in respect of any debt or other obligation or liability—

(i) of a person resident in India, and due or owing to a person resident outside India, or

(ii) of a person resident outside India.".

Omission of section 27.

14. Section 27 of the principal Act shall be omitted.

Amendment of section 28.

15. In section 28 of the principal Act,—

(a) for sub-sections (1) and (2), the following sub-sections shall be substituted namely:

"(1) Without prejudice to the provisions of section 47 and notwithstanding anything contained in any other provision of this Act or the Companies Act, 1956, a person resident outside India (whether a citizen of India or not) or a person who is not a citizen of India but is resident in India, or a company (other than a banking company) which is not incorporated under any law in force in India or any branch of such company, shall not, except with the generad or special permission of the Reserve Bank, act, or accept appointment, as agent in India of any person or company, in the trading or commercial transactions of such person or company.

1 of 1956.

(2) Where any such person or company (including its branch) as is referred to in sub-section (1) acts or accepts appointment as such agent without the permission of the Reserve Bank, such acting or appointment shall be void.";

(b) in the *Explanation*, clause (d) shall be omitted.

Amendment of section 29.

16. In section 29 of the principal Act,—

(*a*) in sub-section (*1*), the words " or in which the non-resident interest is more than forty per cent." shall be omitted;

(*b*) after sub-section (*1*), the following sub-section shall be inserted, namely:—

"(*1A*) A company (other than a banking company) in which the non-resident interest is more than forty per cent., shall not, except with the general or special permission of the Reserve Bank, carry on in India any activity relating to agriculture or plantation or acquire the whole or any part of any undertaking in India of any person or company carrying on any activity relating to agriculture or plantation or purchase the shares in such company.";

(*c*) after sub-section (*4*), for the *Explanation*, the following *Explanation* shall be substituted, namely :—

'*Explanation*.—For the purposes of this section,—

(*i*) "company" has the same meaning as in clause (*b*) of the *Explanation* to section 28;

(*ii*) "non-resident interest" means participation in the share capital by, or entitlement to the distributable profits of, any individual or company resident outside India, or any company not incorporated under any law in force in India, or any branch of such company whether resident outside India or not.".

Amendment of section 30.

17. In section 30 of the principal Act, for sub-section (*1*), the following sub-section shall be substituted, namely:—

"(*1*) No national of a foreign State shall, without the previous permission of the Reserve Bank, practise any profession or carry on any occupation, trade or business in India in a case where such national desires to acquire any foreign exchange (such foreign exchange being intended for remittance outside India) out of any moneys received by him in India by reason of the practising of such profession or the carrying on of such occupation, trade or business, as the case may be.".

Amendment of section 31.

18. In section 31 of the principal Act, in sub-section (*1*), the words "or in which the non-resident interest is more than forty per cent." shall be omitted.

Omission of section 32.

19. Section 32 of the principal Act shall be omitted.

Amendment of sections 35, 37, 46 and 62.

20. In section 35, 37, 46 and 62 of the principal Act, for the words and figures "Code of Criminal Procedure, 1898", the words and figures "Code of Criminal Procedure, 1973" shall be substituted.

5 of 1898.
2 of 1974.

Amendment of section 41.

21. In section 41 of the principal Act,—

(*a*) for the words "one year", wherever they occur, the words "six months" shall be substituted;

(*b*) after clause (ii), the following proviso shall be inserted, namely :—

"Provided that the aforesaid period of six months may, for reasons to be recorded in writing, be extended by the Director of Enforcement for a further period not exceeding six months.".

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Amendment of section 42.

22. In section 42 of the principal Act,—

(*a*) in sub-section (*1*) in clause (*i*), after the word and figures "section 18", the words, figures and letter "or section 18A" shall be inserted;

(*b*) after sub-section (*3*), the following sub-sections shall be inserted, namely :—

"(*4*) Where any foreign currency, being the subject-matter of any investigation or proceeding referred to in sub-section (*1*), is in the custody of an officer of Customs or of an officer of Enforcement or of a court, the Collector of Customs, the Director of Enforcement or, as the case may be, the court may, having regard to the security-risk involved in such custody, direct that the foreign currency be deposited in a bank in such manner as he or it may deem fit.

(*5*) Where any draft, cheque (including traveller's cheque) or other instrument is to be encashed under sub-section (*1*) or any foreign currency is to be desposited in a bank under sub-section (*4*), the Collector of Customs, the Director of Enforcement or, as the case may be the court, may prepare or cause to be prepared an inventory of such draft, cheque or other instrument or foreign currency containing such details relating to its description, mark, numbers, country of origin and other particulars as may appear to be relevant to its identity in any proceeding under this Act and where the inventory is prepared or cause to be prepared by the Collector or the Director, the Collector or, as the case may be, the Director shall make an application to a Magistrate for the purpose of—

(*a*) certifying the correctness of the inventory so prepared; or

(*b*) taking in the presence of the Magistrate photographs of such draft, cheque, other instrument or foreign currency, and certifying such photographs as true.

(*6*) Where an application is made under sub-section (*5*), the Magistrate shall, as soon as may be, allow the application.".

mend-
ent of
ction 43.

23. In section 43 of the principal Act, in sub-section (*5*), the words and figures "and to a person to whom a licence has been granted or deemed to have been granted under section 32" shall be omitted.

mend-
ent of
ction 45.

24. In section 45 of the principal Act,—

(*a*) in sub-section (*1*), for the words and figures "Code of Criminal Procedure, 1898, any police officer not below the rank of a Sub-Inspector of Police", the words and figures "Code of Criminl Procedure, 1973, any police officer not below the rank of a Deputy Superintendent of Police" shall be substituted.

5 of 1898.
2 of 1974.

(*b*) in sub-section (*3*) for the words and figures "Code of Criminal Procedure, 1898", the words and figures "Code of Criminal Procedure, 1973" shall be substituted.

mend-
ent of
ction 50.

25. In section 50 of the principal Act, for the words and figures "section 18", the words, figures and letter "section 18, section 18A" shall be substituted.

mend-
ent of
ection 52.

26. In section 52 of the Principal Act,—

(*a*) in sub-section (*2*) after the words "Any person aggrieved by such order may, the words "on payment of such fee as may be prescribed and" shall be inserted.

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(*b*) in sub section (*6*), in the second proviso, for the words "fifty thousand rupees", the words "two lakhs and fifty thousand rupees" shall be substituted. 5 of 1898. 2 of 1974.

Amendment of section 53.

27. In section 53 of the principal Act, in sub-section (2), for the words and figures "section 480 and 482 of the Code of Criminal Procedure, 1898", the words and figures "section 345 and 346 of the Code of Criminal Procedure, 1973" shall be substituted. 5 of 1898. 2 of 1974.

Amendment of section 56.

28. In section 56 of the principal Act,—

(*a*) in sub-section (*1*), for the word and figures "section 18", the words, figures and letter "section 18, section 18A", shall be substituted.

(*b*) in sub-sections (2), and (3), for the word and figures "section 18", wherever they occur, the words, figures and letter "section 18 or section 18A" shall be substituted.

(*c*) in sub-section (*6*), for the words and figures " the first proviso to section 188 of the Code of Criminal Procedure, 1898", the words and figures "the proviso to sectin 188 of the Code of Criminal Procedure, 1973" shall be substituted. 5 of 1898. 2 of 1974.

Amendment of section 58.

29. In section 58 of the principal Act,—

(*a*) in sub-section (*1*), for the words "be punishable with fine which may extend to two thousand rupees", the words "be punishable with imprisonment for a term which may extend to two years or with fine which may extend to ten thousand rupees or with both" shall be substituted;

(*b*) in sub-section (*2*), for the words "two thousand rupees" the words "ten thousand rupees" shall be substituted.

Amendment of section 61.

30. In section 61 of the principal Act, for sub-section (*1*), the following sub-section shall be substituted, namely:—

"(*1*) Notwithstanding anything contained in section 29 of the Code of Criminal Procedure, 1973, it shall be lawful for any metropollan magistrate and for any magistrate of the first class to pass a sentence of imprisonment for a term exceeding three years or of fine exceeding five thousand rupees on any person convicted of an offence punishable under section 56". 2 of 1974.

Amendment of section 64.

31. In section 64 of the principal Act, in sub-section (*1*) and (*2*), for the word and figures "section 18", the words, figures and letters "section 18, section 18A", shall be substituted.

Amendment of section 66.

32. In section 66 of the principal Act, in sub-section (*1*), for the words and figures "section 562 of the Code of Criminal Procedure, 1898" the words and figures "section 360 of the Code of Criminal Procedure, 1973" shall be substituted. 5 of 1898. 2 of 1974.

Amendment of section 67.

33 In section 67 of the principal Act, for the word and figures "section 18", the words, figures and letter "section 18, section 18A" shall be substituted.

Amendment of section 71.

34. In section 71 of the principal Act, in sub-section (*3*), for the words "two hundred and fifty rupees", the words "fifteen thousand rupees" shall be substituted.

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Amendment of section 73.

35. In section 73 of the principal Act, in sub-sectoin (*3*), the words and figures "persons referred to in sub-section (*1*) of section 32" shall be omitted.

Insertion of new section 73A.

36. After section 73 of the principal Act, the following section shall be inserted,

Penalty for contravention of direction of Reserve Bank or for failure to file returns.

"73A. Where any authorised dealer contravenes any direction given by the Reserve Bank under this act or fails to file any return as directed by the Reserve Bank, the Reserve Bank may, after giving a reasonable opportunity of being heard impose on the authorised dealer a penalty which may extend to ten thousand rupees and in the case of continuing contravention with an additional penalty which, may extend to two thousand rupees for every day during which such contravention continues.".

Amendment of section 74.

37. In section 74 of the principal Act, in clause (*i*), for the figures and word "9, 10 or 11", the figures and word "9 or 10" shall be substituted.

Amendment of section 79.

38. In section 79 of the principal Act, in sub-section (2), after clause (*d*), the following clause shall be inserted, namely:—

"(*dd*) prescribe the fee payable a person preferring appeal to the Appellate Board under sub-section (*2*) of section 52;".

SHANKER DAYAL SHARMA,
President.

A. C. C. UNNI,
Additional Secretary to the Govt. of India.

By order and in the name of the Governor of Gujarat,

B. K. SHAH,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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Extra No. 10 REGISTERED NO. G/GNR/2

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, 20th March, 1993.

No. RP/25/93/Ord. 10/93/54/Research/ .—The following Ordinance promulgated by the President and published in the Gazette of India, Extra-ordinary, Part-II, Section 1, dated the 8th January, 1993 is republished for general information:—

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 8th January, 1993/Pausa 19, 1914 (Saka)

THE NATIONAL THERMAL POWER CORPORATION LIMITED, THE NATIONAL HYDROELECTRIC POWER CORPORATION LIMITED AND THE NORTH-EASTERN ELECTRIC POWER CORPORATION LIMITED (ACQUISITION AND TRANSFER OF POWER TRANSMISSION SYSTEMS) ORDINANCE, 1993

No. 10 of 1993

Promulgated by the President in the Forty-third Year of the Republic of India.

An Ordinance to provide in the public interest for the acquisition and transfer of the power transmission systems of the three companies and the right, title and interest of those companies in the power transmission system situated in different parts of India, with a view to developing the National Power Grid to ensure transmission of power, within and across the different regions of India, on a more scientific, efficient and economic basis and for matters connected therewith or incidental thereto.

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WHEREAS a Bill to provide in the public interest for the acquisition and transfer of the power transmission systems of the three companies and the right, title and interest of those companies in the power transmission system situated in different parts of India, with a view to developing the National Power Grid to ensure transmission of power, within and across the different regions of India, on a more scientific, efficient and economic basis and for matters connected therewith or incidental thereto, was introduced in the House of the People, but has not been passed;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action to give effect to the provisions of the said Bill;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

CHAPTER 1

PRELIMINARY

Short title, extent and commencement.

1. (*1*) This Ordinance may be called the National Thermal Power Corporation Limited, the National Hydroelectric Power Corporation Limited and the North-Estern electric Power Corporation Limited (equisition and Transfer of Power Transmission Systems) Ordinance, 1993.

(*2*) It extends to the whole of India except the State of Jammu and Kashmir.

(*3*) The provisions of sections 8 to 11 and sections 13 to 16 shall come into force at once and the other provisions of this Ordinance shall be deemed to have come into force on the 1st day of April, 1992.

Definitions.

2. In this Ordinance, unless the context otherwise requires,—

(*a*) "appointed day" means the 1st day of April, 1992;

(*b*) "associated personnel" means the employees of each of the three companies associated with its power transmission system;

(*c*) "Corporation" means the Power Grid Corporation of India Limited, being a company within the meaning of the Companies Act, 1956 and having its registered office at Hemkunt Chambers, 89, Nehru Place, New Delhi-110 019; 1 of 19

(*d*) "notification" means a notification published in the Official Gazette;

(*e*) "power transmission system", in relation to each company specified in the First Schedule, means the main transmission lines [including extra high voltage alternative current (EHVAC) lines and high voltage direct current (HVDC) lines] and sub-stations owned by each such company;

(*f*) "prescribed" means prescribed by rules made under this Ordinance;

(*g*) "three companies" means the companies specified in the First Schedule.

(*h*) words and expressions used herein and not defined but defined in the Electricity (Supply) Act, 1948 or as the case may be, the Companies Act, 1956 shall have the meanings, respectively, assigned to them in those Acts. 54 of 19 1 of 19

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CHAPTER II

ACQUISITION AND TRANSFER OF POWER TRANSMISSION SYSTEMS

Acquisition of rights of three companies in relation to the power transmission systems.

3. (*1*) On the appointed day, the power transmission system and the right, title and interest of each of the three companies in relation to its power transmission system shall, by virtue of this Ordinance, be deemed to have been transferred to, and vested in, the Central Government.

(*2*) The power transmission systems vested in the Central Government by virtue of sub-section (*1*) shall, immediately after they had so vested, be deemed to have been transferred to, and vested in, the Corporation.

General effect of vesting.

4. (*1*) The power transmission system shall be deemed to include all assets, rights, leaseholds, powers, authorities and privileges and all property, movable and immovable, relating to such system including lands, buildings, workshops, projects (whether complete or at any stage of completion or planning), stores, spares, instruments, machinery and equipment, construction equipments unutilised long-term and short-term loans and all other rights and interests in, or arising out of, such property as were, immediately before the appointed day, in the ownership, possession, power or control of the three companies and all books of account, registers and all other documents of whatever nature relating thereto but shall be deemed not to include—

(*a*) book debts due to the three companies, immediately before he appointed day;

(*b*) cash balances and bank balances as on the appointed day;

(*c*) income and expenditure on revenue account relating to any period before the appointed day.

Explanation.—For the removal of doubts, it is hereby declared that rights in relation to the power transmission system of each of the three companies which have been transferrd to, and vested in, the Corporation under sub-section (*2*) of section 3 and this sub-section shall include the right to collect transmission charges for transmission of power and any monies collected on or after the appointed day by any of the three companies as transmission charges (whether shown separately or not) shall be payable by such company to the Corporation.

(*2*) Unless otherwise expressly provided by this Ordinance all deeds bonds, guarantes (other than guarantees given by the Government of India), agreements, powers of attorney, grants of legal representation and other instruments of whatever nature in relation to the power transmission system of each of the three companies, subsisting or having effect immediately before the appointed day, and to which each of the three companies is a party or which are in favour of any of the said companies shall be of as full force and effect against or in favour of the Corporation and may be enforced or acted upon as fully and effectually as if in the place of the concerned company the Corporation had been a party thereto or as if they had been issued in favour of the Corporation.

(*3*) If, on the date of promulgation of this Ordinance, any suit, appeal or other proceeding of whatever nature in relation to any property or assets which have been transferred to, and vested in, the Corporation under sub-sction (*2*) of section 3, instituted or preferred by or against any of the three companies is pending, the same shall not abate, be discontinued or be, in any way, prejudicially affected by reason of the transfer of the power transmission system of that company or of anything contained in this Ordinance, but the suit, appeal or other proceeding may be continued, prosecuted or enforced, subject to the provisions of sub-section (1) of section 5, by or against the Corporation.

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Corporation to be liable certain prior liabilities.

5. (*1*) Subject to the provisions of sub-section (*2*), every liability of each of the three companies in relation to its power transmission system, in respect of any period prior to the appointed day, which has been transferred to, and vested in, the Corporation under sub-section (*2*) of section 3, shall be the liability of the Corporation and shall be enforceable against the Corporation and not against the company:

Provided that nothing contained in this sub-section shall apply to—

(*a*) the income and expenditure on revenue account relating to any period before the appointed day and received or, as the case may be, incurred by any of the three companies on or after the appointed day;

(*b*) arrears of depreciation, regarding contingent liabilities on capital account relating to any period before the appointed day, arising on account of the decision of any court, tribunal or other authority.

(*2*) Where any repayment of a loan or interest, or both, has been made, on or after the appointed day, by any of the three companies to any lending agency, such repayment shall be deemed to have been made by the Corporation and the amount of such repayment shall be reimbursed by the Corporation to the concerned company on adjustment of transmission charges or any other amount due to the Corporation from the concerned company.

Corporation to be lessee or tenant.

6. (*1*) Where any property is held by any of the three companies in relation to its power transmission system under any lease or right of tenancy, the Corporation shall, on and from the appointed day, be deemed to have become the lessee or tenant, as the case may be, in respect of such property as if the lease or tenancy in relation to such property had been granted to the Corporation and thereupon all the rights under such lease or tenancy shall be deemed to have been transferred to, and vested in, the Corporation.

(*2*) On the expiry of the term of any lease or tenancy referred to in sub-section (*1*), such lease or tenancy shall, if so desired by the Corporation, be renewed on the same terms and conditions on which the lease or tenancy was held by any of the three companies immediately before the appointed day.

Removal of doubts.

7. (*1*) For the removal of doubts, it is hereby declared that the provisions of sections 3, 4, 5 and 6 shall apply to the extent to which any property appertains to the business relating to the power transmission system carried on by the three companies and to the rights and powers acquired, and to debts, liabilities and obligations incurred, and to contracts, agreements and other instruments made by any of the three companies and to legal proceedings relating to those matters pending in any court, tribunal or other authority in India.

(*2*) If any question arises as to whether any property appertaned, on the appointed day, to any business of any of the three companies in relation to its power transmission syetem, or whether any rights, powers, debts, liabilities or obligations were acquired or incurred or any contract, agreement or other instrument was made by any of the three companies for the purposes of its said business, or whether any document relates to those purposes, the question shall be referred to the Central Government which shall, after giving a reasonable opportunity of being heard to the persons interested in the matter, decide it in such manner as it may think fit.

Payment of amount.

8. (*1*) For the transfer to, and vesting in the Central Government under sections 3 and 4, of the power transmission system and the right, title and interest of each of the three companies in relation to its power transmission system, there shall be paid, in the prescribed manner, by the Central Government to each of the three companies such amount as is equal to the book value of all the assets and properties after deduction of liablities (other than contingent liabilities) given in the audited statement of accounts of each of the three companies as on the 31st day of March, 1992.

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(2) For the transfer to, and vesting in, the Corporation under sub-section (2) of section 8 of the power transmission system and the right, title and interest of each of the three companies in relation to its power transmission system, there shall be paid, in the prescribed manner, by the Corporation to the Central Government, the amount which is paid by that Government to the three companies under sub-section (1).

(3) In case of any dispute ralating to the nature of any asset, property or liability or the amount payable under sub-section (1), the dispute shall be referred by the Central Government to such authority as it may appoint and the decision of that authority in the matter shall be final.

CHAPTER III

DELIVERY OF ASSETS, ETC., TO THE CORPORATION

Duty of persons to account for assets, etc., in their possession.

9. (1) Any person who has, on thedate of commencement of this Ordinance, in his possession or under his control, any assets ,books and any other documents relating to the power transmission system which has been transferred to, and vested in, the Corporation under sub-section (2) of section 3, shall be liable to account for the said assets, books and documents to the Corporation and shall deliver them up to the Corporation or to such person or persons as the Corporation may specify in this behalf.

(2) The Corporation may take or cause to be taken all necessary steps for securing possession of the power transmission system which has been transferred to, and vested in, the Corporation under this Ordinance.

(3) Each of the three companies shall, within such period as the Corporation may allow in this behalf, furnish to the Corporation a complete inventory of all its property and assets as on the appointed day pertained to its power transmission system which has been transferred to, and vested in, the Corporation under sub-section (2) of section 3.

CHAPTER IV

PROVISIONS RELATING TO ASSOCIATED PERSONNEL

Continuance of associated personnel.

10. (1) On the vesting of the power transmission system of the three companies in the Corporation, the associated personnel who have been, immediately on or before the appointed day, employed in any of the three companies and have not already become employees of the Corporation shall become, on and from the date of commencement of this Ordinance, employees of the Corporation and shall hold office or service under the Corporation on the terms and conditions which are not in any way less favourable than those which would have been admissiable to them if there had been on such vesting and shall continue to do so unless and until their employment under the Corporation is duly terminated or until their remuneration and other conditions of service are duly altered by the Corporation. ......

14 of 1947.

(2) Notwithstanding anything contained in the Industrial Disputes Act, 1947, or any other law for the time being in force, the transfer of the services of the associate personnel to the Corporation shall not entitled such personnel to any compensation under this Ordinance or any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority.

Provident fund and other funds.

11. (1) Where any of the three companies has established a provident fund or any other fund for the benefit of the persons employed by it, the monies relatable to the associated personnel who have already become employees of the Corporation or whose services have become transferred under this Ordinance to the Corporation shall, out of the monies standing, on the date of transfer of the associated personnel, to the credit of such provident fund or other fund, stand transferred to, and vest in, the Corporation.

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(2) The monies which stand transferred under sub-section (*1*) to the Corporation shall be dealt with by the Corporation in such manner as may be prescribed.

CHAPTER V

MISCELLANEOUS

Ordinance to have over-riding effect.

12. The provisions of this Ordinance shall have effect notwithastanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law, other than this Ordinance, or in any decree or order of any court, tribual or other authority.

Penalties.

13. Any person who,—

(*a*) having in his possession, custody or control any property forming part of the power transmission system of any of the three companies wrongfully withholds such property from the Corporation; or

(*b*) wrongfully obtains possession of, or retains, any property forming part of the power transmission system of any of the three companies; or,

(c) wilfully withholds or fails to furnish to the Corporation or any person or body of persons specified by the Corporation, any document or inventory relating to the power transmission system of any of the three companies, which may be in his possession, custody or control; or

(d) fails to deliver to the Corporation or any person or body of persons specified by that Corporation, any assets, books of account, registers or other documents in his possession, custody or control relating to the power transmission system of any of the three companies,

shall be punishable with imprisonment for a term which may extend to two years and also with fine which may extend to ten thousand rupees.

Offences by companies

14. (*1*) Where an offence punishable under this Ordinance has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such persons liable to any punishment, if he proves that the offence was committed without his knowledge and that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (*1*), where any offence under this Ordinance has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section.—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

Protection of action taken in good faith

15. No suit, prosecution or other legal proceedings shall lie against the Central Government or the Corporation or any of the three companies or any officer of that Government, Corporation or company or any other person authorised by that Government, Corporation or company for anything which is in good faith done or intended to be done under this Ordinance.

Power to make rules.

16. (*1*) The Central Government may, by notification make rules for carrying out the provisions of this Ordinance.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters namely:—

(*a*) the manner in which the amount is to be paid under sub-section (*1*) or sub-section (*2*) of section 8;

(*b*) the manner in which the monies in any provident fund other fund, referred to in subsection (2) of section 11, shall be dealt with;

(*c*) any other matter which is required to be, or may be, prescribed.

(*3*) Every rule made by the Central Government under this Ordinance shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or thesuccessive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

THE SCHEDULE

[*See* section 2(*e*) and (*g*)]

NAMES OF COMPANIES

1. The National Thermal Power Corporation Limited, a company incorporated and registered under the Companies Act, 1956 having its registered office in Core No. 7, SCOPE Complex, Lodhi Road, New Delhi-110003.

2. The National Hydroelectric Power Corporaton Limited, a company incorporated and registered under the Companies Act, 1956 having its registered office at Hemkunt Tower, 98, Nehru Place, New Delhi-110019.

3. The North-Eastern Electric Power Corporation Limited, a company incorporated and registered under the Companies Act, 1956 having its registered office at Kharmalki Road, Shillong-793001.

SHANKER DAYAL SHARMA,
President.

A. C. C. UNNI,
Additional Secretary to the Govt. of India.

By order and in the name of the Governor of Gujarat,

B. K. SHAH,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, 20th March, 1993.

No. RP/37/93/Ord. 19/93/55/Research.–The following Ordinance promulgated by the President and published in the Gazette of India Extra-ordinary, Part-II, Section 1, dated the 30th January, 1993 is republished for general information:–

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 30th January, 1993/Magha 10, 1914 (Saka)

THE OILFIELDS (REGULATION AND DEVELOPMENT) AMENDMENT ORDINANCE, 1993

No. 19 of 1993.

Promulgated by the President in the Forty-fourth Year of the Republic of India.

An Ordinance further to amend the Oilfields (Regulation and Development) Act, 1948.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action.

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance.–

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Short title and commencement.

1. (*1*) This Ordinance may be called the Oilfields (Regulation and Development) Amendment Ordinance, 1993.

(2) It shall come into force at once.

Amendment of section 6A of Act 53 of 1948.

2. In section 6A of the Oilfields (Regulation and Development) Act, 1948, after sub-section (*4*), the following sub-section shall be inserted namely:—

"(*5*) Notwithstanding anything contained in sub-section (*4*), the Central Government may, by notification in the Official Gazette, amend the Schedule so as to enhance the rate of royalty payable in respect of crude oil, produced during the period beginning on the 1st day of April, 1990 and ending on the 31st day of March, 1993, to 24.25 per cent of the sale price of crude oil at the oilfields or the oil well-head, as the case may be.".

SHANKER DAYAL SHARMA,
President.

K. L. MOHANPURIA.
Secy. to the Govt. of India.

By order and in the name of the Governor of Gujarat,

B. K. SHAH,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

GOVERNMENT OF GUJARAT

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, Dated the 6th April, 1993.

No. RP/40/93/Ord. 22/93/Research/.—The following Ordinance promulgated by the President and published in the Gazette of India, Extra-ordinary, Part-II, Section 1, dated the 31st January, 1993, is republished for general information:—

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 31st January, 1993/Magha 11, 1914 (Saka)

THE GOLD BONDS (IMMUNITIES AND EXEMPTIONS) ORDINANCE, 1993

No. 22 of 1993

Promulgated by the President in the Forty-fourth Year of the Republic of India.

An Ordinance to provide for certain immunities to the subscribers of the Gold Bonds and for certain exemptions from direct taxes in relation to such Bonds and for matters connected therewith or incidental thereto.

WHEREAS with a view to mobilising the idle gold resources of residents in India, it is expedient to provide for certain immunities and exemptions to render it possible for such residents to subscribe to Gold Bonds;

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AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance.

Short title and commencement.

1. (*1*) This Ordinance may be called the Gold Bonds (Immunities and Exemptions) Ordinance, 1993.

(*2*) It shall come into force at once.

Definitions.

2. In this Ordinance, unless the context otherwise requires,—

(*a*) "Gold Bonds" means the Gold Bonds, 1998, issued by the Central Government in accordance with the scheme framed by that Government under section 3;

(*b*) "subscriber" means an individual, a Hindu undivided family, trustees of a trust a firm or a company, being a resident or residents in India, who has or have initially subscribed to the Gold Bonds.

Explanation.—For the purposes of this clause, the expression "individual" shall also include,—

(*i*) his legal heirs; or

(*ii*) where a partition has taken place among the members of the Hindu undivided family, every member of such family having a share in the Gold Bonds.

(*c*) all other words and expressions used in this Ordinance but not defined and defined in the Income-tax Act, 1961 shall have the meanings respectively assigned to them in that Act. 43 of 1961.

Gold Bonds scheme.

3. (*1*) The Central Government may, by notification in the *Official Gazette,* frame a scheme for subscription to the Gold Bonds, 1998, on or after the date of commencement of this Ordinance, but before the specified date.

Explanation.—For the purposes of this sub-section "specified date means the 31st day of March, 1993 or such other later date as the Central Government may, by notification in the *Official Gazette,* specify in this behalf.

(2) The Central Government shall cause the scheme notified under sub-section (*1*) to be laid, as soon as may be after it is notified, before each House of Parliament.

Immunities.

4. (*1*) Notwithstanding anything contained in the Wealth-tax Act, 1957, the Gift-tax Act, 1958, the Income-tax Act, 1961, the Customs Act, 1962, the Foreign Exchange Regulation Act, 1973 and the Foreign Contribution (Regulation) Act, 1976,—

27 of 1957
18 of 195
43 of 1961
52 of 196
46 of 197
49 of 197

(*a*) no subsriber shall be required to disclose, for any purpose whatsoever, the nature and source of acquisition of the gold subscribed for the Gold Bonds, including the source of money with which the gold was acquired;

(*b*) no inquiry or investigation shall be commenced against any subscriber under any of the said Acts on the ground that such subscriber owns the Gold Bonds; and

(*c*) the fact that any subscriber owns the Gold Bonds shall not be taken into account for the purposes of, and shall be inadmissible as evidence in, any proceedings under any of the said Acts:

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Provided that nothing contained in this sub-section shall apply where any proceedings in respect of the gold subscribed by the subscriber have already been initiated before the commencement of this Ordinance in accordance with the provisions of any of the aforesaid Acts.

(2) Nothing in sub-section (*1*) shall apply in relation to prosecution for any offence punishable under Chapter IX or Chapter XVII of the Indian Penal Code, the Narcotic Drugs and Psychotropic Substances Act, 1985, the Terrorist and Disruptive Activities (Prevention) Act, 1987, the Prevention of Corruption Act, 1988 or for the purposes of enforcement of any civil liability.

45 of 1860.
61 of 1985.
28 of 1987.
49 of 1988.

Gold Bonds not to be taken into account in certain cases.

5. Without prejudice to the generality of the provisions of section 4,—

(*a*) the provisions of the Income-tax Act, 1961 shall not apply to— 43 of 1961.

(*i*) any interest accruing to the subscriber from the Gold Bonds;

(*ii*) any long-term capital gains arising to the subscriber;

(*b*) the provisions of the Gift-tax Act, 1958 shall not apply where the gift of the Gold Bonds is made by a subscriber, being an individual, to his spouse, child or parent. 18 of 1958.

SHANKER DAYAL SHARMA
President

K. L. MOHANPURIA,
Secy. to the Govt. of India.

By order and in the name of the Governor of Gujarat,

B. K. SHAH,
Secretary to Government

GOVERNMENT OF GUJARAT

LEGAL DEPARTMET

Sachivalaya, Gandhinagar, Dated the 6th April, 1993.

No. RP/41/93/ord. 23/93/Research/ :—The following Ordinance promulgated by the President and published in the Gazette of India, Extra-ordinary, Part-II, section 1, dated the 1st February, 1993 is republished for general information:—

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 1st February, 1993/Magha 12, 1914 (Saka)

THE NATIONAL COMMISSION FOR BACKWARD CLASSES ORDINANCE, 1993

No. 23 OF 1993

Promulgated by the President in the Forty-fourth Year of the Republic of India

An Ordinance to constitute a National Commission for Backward Classes other than the Scheduled Castes and the Scheduled Tribes and to provide for matters connected therewith or incidental thereto.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exits which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (*1*) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

CHAPTER I

PRELIMINARY

Short title extent and commencement.

1. (*1*) This Ordinance may be called the National Commission, for Backwrd Classes Ordinance, 1993.

(*2*) It extends to the whole of India except the State of Jammu and Kashmir.

(*3*) It shall come into force at once.

Definitions.

2. In this Ordinance, unless the context otherwise requires,—

(*a*) "backward classes", for the purpose of this Ordinnce, means such backward classes of citizens other than the Scheduled Castes and the Scheduled Tribes as may be specified by the Central Government in the lists;

(*b*) "Commisson" means the National Commission for Backward Classes constituted under section 3;

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(*c*) "lists" means lists prepared by the Government of India from time to time for purposes of making provision for the reservation of appointments or posts in favour of backward classes of citizens which, in the opinion of that Government, are not adequately represented in the services under the Government of India and any local or other authority within the territory of India or under the control of the Government of India;

(*d*) "Member" means a Member of the Commission and includes the Chairperson;

(*e*) "prescribed" means prescribed by rules made under this Ordinance.

CHAPTER II

THE NATIONAL COMMISSION FOR BACKWARD CLASSES

Constitution of the National Commission for Backward Classes.

3. (*1*) The Central Government shall constitute a body to be known as the National Commission for Backward Classes to exercise the powers conferred on, and to perform the functions assigned to, it under this Ordinance.

(*2*) The Commission shall consist of the following Members nominated by the Central Government:—

(*a*) a Chairperson, who is or has been a Judge of the Supreme Court or of a High Court;

(*b*) a social scientist;

(*c*) two persons, who have special knowledge in matters relating to backward classes; and

(*d*) a Member-Secretary, who is or has been an officer of the Central Government in the rank of a Secretary to the Government of India.

Term of office and conditions of serfice of Chairperson and Members.

4. (*1*) Every Member shall hold office for a term of three years from the date he assumes office.

(*2*) A Member may, by writing under his hand addressed to the Central Government, resign from the office of Chairperson or, as the case may be, of Member at any time.

(*3*) The Central Government shall remove a person from the office of Member it that person—

(*a*) becomes an undischarged insolvent;

(*b*) is convicted and sentenced to imprisonment for an offence which, in the opinion of the Central Government, involves moral turpitude;

(*c*) becomes of unsound mind and stands so declared by a competent court;

(*d*) refuses to act or becomes incapable of acting;

(*e*) is, without obtaining leave of absence from the Commission, absent from three consecutive meetings of the Commission; or

(*f*) has, in the opinion of the Central Government, so abused the position of chairperson or Member as to render that person's continuance in office detrimental to the interests of backward classes or the public interest:

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Provided that no person shall be removed under this clause until that person has been given an opportunity of being heard in the matter.

(*4*) A vacancy caused under sub-section (2) or otherwise shall be filled by fresh nomination.

(*5*) The salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and Members shall be such as may be prescribed.

Officers and other employees of the Commission.

5. (*1*) The Central Government shall provide the Commission with such officers and employees as may be necessary for the efficient performance of the functions of the Commission.

(*2*) The salaries and allowances payable to, and the other terms and conditions of service of, the officers and other employees appointed for the purpose of the Commission shall be such as may be prescribed.

Salaries and allowances to be paid out of grants.

6. The salaries and allowances payable to the Chairperson and Members and the administrative expenses, including salaries, allowances and pensions payable to the officers and other employees referred to in section 5, shall be paid out of the grants referred to in sub-section (*1*) of section 12.

Vacancies, etc. not to invalidate proceedings of the Commission.

7. No act or proceeding of the Commission shall be invalid on the ground merely of the existence of any vacancy or defect in the constitution of the Commission.

Procedure to be regulated by the Commission.

8. (*1*) The Commission shall meet as and when necessary at such time and place as the Chairperson may think fit.

(*2*) The Commission shall regulate its own procedure.

(*3*) All orders and decisions of the Commission shall be authenticated by the Member Secretary or any other officer of the Commission duly authorised by the Member Secretary in this behalf.

CHAPTER III

FUNCTIONS AND POWERS OF THE COMMISSION

Functions of the Commission.

9. (*1*) The Commission shall examine requests for inclusion of any class of citizens as a backward class in the lists and hear complaints of over-inclusion or under-inclusion of any backward class in such lists and tender such advice to the Central Government as it deems appropriate.

(*2*) The advice of the Commission shall ordinarily be binding upon the Central Government.

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Powers of the Commission.

10. The Commission shall while performing its functions under sub-section (*1*) of section 9, have all the powers of a civil court trying a suit and in particular, in respect of the following matters, namely:—

(*a*) summoning and enforcing the attendance of any person from any part of India and examining him on oath;

(*b*) requiring the discovery and production of any document;

(*c*) receiving evidence on affidavits;

(*d*) requisitioning any public record or copy thereof from any court or office;

(*e*) issuing commissions for the examination of witnesses and documents; and

(*f*) any other matter which may be prescribed.

Periodic revision of lists by the Central Government.

11. (*1*) The Central Government may at any time, and shall, at the expiration of ten years from the coming into force of this Ordinance and every succeeding period of ten years thereafter, undertake revision of the lists with a view to excluding from such lists those classes who have ceased to be backward classes or for including in such lists new backward classes.

(*2*) The Central Government shall, while undertaking any revision referred to in sub-section (1), consult the Commission.

CHAPTER IV

FINANCE, ACCOUNTS AND AUDIT

Grants by the Central Government.

12. (*1*) The Central Government shall, after due appropriation made by Parliament by law in this behalf, pay to the Commission by way of grants such sums of money as the Central Government may think fit for being utilised for the purposes of this Ordinance.

(*2*) The Commission may spend such sums as it thinks fit for performing the function under this Ordinance, and such sums shall be treated as expenditure payable out of the grants referred to in sub-section (*1*).

Accounts and Audit

13. (*1*) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(*2*) The accounts of the Commission shall be audited by the Comptroller and Auditor-General at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Commission to the Comptroller and Auditor-General.

(*3*) The Comptroller and Auditor-General and any person appointed by him in connection with the audit of the accounts of the Commission under this Ordinance shall have the same rights and privileges and the authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts and in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Commission.

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Annual Report.

14. The Commission shall prepare, in such form and at such time, for each financial year, as may be prescribed, its annual report, giving a full account of its activities during the previous fianancial year and forward a copy thereof to the Central Government.

Annual report and audit report to be laid before Parliament.

15. The Central Government shall cause the annual report, together with a memorandum of action taken on the advice tendered by the Commission under section 9 and the reasons for the non-acceptance, if any, of any such advice, and the audit report to be laid as soon as may be after they are received before each House of Parliament.

CHAPTER V

MISCELLANEOUS

Chairperson, Members and employees of the Commission to be public servants.

45 of 1860. 16. The Chairperson, Members and employees of the Commission shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Power to make rules.

17. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—

(*a*) salaries and allowances payable to and the other terms and conditions of service of, the Chairperson and Members under sub-section (*5*) of secion 4 and of officers and other employees under sub-section (*2*) of section 5;

(*b*) the form in which the annual statement of accounts shall be maintained under sub-section (*1*) of section 13;

(*c*) the form in, and the time at, which the annual report shall be prepared under section 14;

(*d*) any other matter which is required to be, or may be, prescribed.

(*3*) Every rule made under this Ordinance shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more sucessive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

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Power to remove difficulties.

18. (*1*) If any difficulty arises in giving effect to the provisions of this Ordinance, the Central Government may, by order published in the official Gazette, make provisions, not inconsistent with the provisions of this Ordinance as appear to it be necessary or expedient, for removing the difficulty.

(*2*) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

SHANKER DAYAL SHARMA,
President.

K. L. MOHANPURIA,
Secy. to the Govt. of India.

By order and in the name of the Governor of Gujarat,

B. K. SHAH,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, 7th May, 1993.

No. RP/48/93/3/93/Research.—The following Act of Parliament is re-published for general information :

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(LEGISLATIVE DEPARTMENT)

New Delhi, the 5th January, 1993/Pausa 15, 1914 (Saka).

The following Act of Parliament received the assent of the President on the 5th January, 1993 and is hereby published for general information :

THE SALARY, ALLOWANCES AND PENSION OF MEMBERS OF PARLIAMENT (AMENDMENT) ACT, 1992.

[Act No. 3 of 1993] **[5th January, 1993].**

AN ACT

further to amend the Salary, Allowances and Pension of Members of Parliament Act, 1954.

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

1. This Act may be called the Salary, Allowances and Pension of Members of Parliament (Amendment) Act, 1992. Short title.

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Amendment of section 5 of Act 30 of 1954.

2. In section 5 of the Salary, Allowances and Pension of Members of Parliament Act, 1954 :—

(*a*) in sub-section (*2*),—

(*i*) after the words "performed by him", the words, "either alone or alongwith companion or spouse", shall be inserted;

(*ii*) in the proviso, for the word "sixteen", the word "twenty-eight" shall be substituted;

(*b*) after *Explanation II*, the following *Explanation* shall be inserted, namely :—

Explanation III.—For the purposes of sub-section (*2*), any journey performed by the companion or the spouse shall be added in computing the limit of twenty-eight journeys specified in the proviso to that sub-section.".

SHRI A.C.C. UNNI,
Additional Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

B. K. SHAH,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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Vol. XXXIV] MONDAY, MAY 10, 1993/VAISAKHA 20, 1915

Separate paging is given to this Part in order that it
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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, 7th May, 1993.

No. RP/52/93/38/92/Research.—The following Act of Parliament is re-published for general information:—

GOVERNMENT OF INDIA
MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
(Legislative Department)

New Delhi, the 4th December, 1992/Agrahayana 13, 1914 (Saka)

The following Act of Parliament received the assent of the President on the 4th **December, 1992** and is hereby published for general information:

THE REPRESENTATION OF THE PEOPLE (AMENDMENT) ACT, 1992

[Act No. 38 of 1992] [4th December, 1992]

AN ACT

further to amend the Representation of the People Act, 1950.

Be it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Representation of the People (Amendment) Act, 1992.

(2) It shall come into force on such date as the Central Government may, by notification in the *Official Gazette*, appoint.

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Amendment of section 7.

2. In section 7 of the Representation of the People Act, 1950 (hereinafter referred to as the principal Act),— 43 of 195

(*a*) in sub-section (*1*), for the words, brackets, figures and letters "sub-sections (*1A*) and (*1B*)", the words, brackets, figures and letters "sub-sections (*1A*), (*1B*) and (*1C*)" shall be substituted;

(*b*) after sub-section (*1B*), the following sub-section shall be inserted, namely:—

"(*1C*) Notwithstanding anything contained in sub-section (*1*), twenty seats shall be reserved for the Scheduled Tribes in the Legislative Assembly of the State of Tripura to be constituted at any time after the commencement of the Representation of the People (Amendment) Act, 1992.".

Insertion of new section 9B.

3. After section 9A of the principal Act and before the sub-heading "*The State Legislative Councils*", the following section shall be inserted, namely:—

Power of Election Commission to determine certain constituencies to be reserved for Scheduled Tribes in the State of Tripura.

"9B. (*1*) As soon as may be after the coming into force of the Representation of the People (Amendment) Act, 1992, the Election Commission shall, having regard to the provisions of the Constitution and the principle specified in clause (*d*) of sub-section (*1*) of section 9 of the Delimitation Act, 1972, determine the three assembly constituencies in the State of Tripura in which the three additional seats for Scheduled Tribes, as increased by sub-section (*1C*) of section 7, shall be reserved. 76 of 197

(*2*) The Election Commission shall,—

(*a*) publish its proposals under sub-section (*1*) in the *Official Gazette*, and also in such other manner as it thinks fit;

(*b*) specify a date on or after which the proposals will be further considered by it;

(*c*) consider all objections and suggestions which may have been received by it before the date so specified;

(*d*) hold, for the purpose of such consideration, if it thinks fit so to do, one or more public sittings at such place or places in the State as it thinks fit;

(*e*) after considering all objections and suggestions which may have been received by it before the date so specified, determine, by order, the three assembly constituencies in the State in which the said three additional seats shall be reserved for the Scheduled Tribes and cause such order to be published in the *Official Gazette*; and, upon such publication, the order shall have the full force of law and shall not be called in question in any court and the Delimitation of Parliamentary and Assembly Constituencies Order, 1976, shall be deemed to have been amended accordingly.

(*3*) Every order made under sub-section (*2*) shall, as soon as may be after it is published under that sub-section, be laid before the Legislative Assembly of the State of Tripura.".

SHRI K. L. MOHANPURIA,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

B. K. SHAH,
Secretary to Government.

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LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, 7th May, 1993.

No. RP/53/93/39/92/Research.—The following Act of Parliament is re-published for general information:—

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(LEGISLATIVE DEPARTMENT)

New Delhi, the 11th December, 1992/Agrahayana 20, 1914 (Saka)

The following Act of Parliament received the assent of the President on the 10th December, 1992 and is hereby published for general information :—

THE CITIZENSHIP (AMENDMENT) ACT, 1992.

[Act No. 39 of 1992] [10th December, 1992]

AN ACT

further to amend the Citizenship Act, 1955.

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows :—

1. This Act may be called the Citizenship (Amendment) Act, 1992. Short title.

57 of 1955 2. In section 4 of the Citizenship Act, 1955 (hereinafter referred to as the principal Act),— Amendment of section 4.

(*a*) in sub-section (*1*),—

(*i*) for the opening portion beginning with the words "A person born outside India" and ending with the words "at the time of his birth:", the following shall be substituted, namely :—

"A person born outside India,—

(*a*) on or after the 26th January, 1950, but before the commencement of the Citizenship (Amendment) Act, 1992, shall be a citizen of India by descent if his father is a citizen of India at the time of his birth; or

(*b*) on or after such commencement, shall be a citizen of India by descent if either of his parents is a citizen of India at the time of his birth:";

(*ii*) in the opening portion of the existing proviso, after the words "if the father of such a person", the words "referred to in clause (*a*)" shall be inserted;

(*iii*) after the existing proviso, as so amended, the following proviso shall be inserted, namely :—

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"Provided further that if either of the parents of such a person referred to in clause (*b*) was a citizen of India by descent only, that person shall not be a citizen of India by virute of this section unless—

(*a*) his birth is registered at an Indian consulate within one year of its occurrence or the commencement of the Citizenship (Amendment) Act, 1992, whichever is later, or, withe the permission of the Central Government, after the expiry of the said period; or

(*b*) either of his parents is, at the time of his birth, in service under a Government in India.";

(*b*) in sub-section (3), for the words "any male person", the words "any person" shall be substituted.

Amendment of section 8.

3. In section 8 of the principal Act, in sub-section((2), for the words "a male person" the words "a person" shall be substituted.

SHRI K. L. MOHANPURIA,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

B. K. SHAH,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, 7th May, 1993.

No. RP/54/93/40/92/Research.—The following Act of Parliament is re-published for general information.

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 28th December, 1992/Pausa 7, 1914 (saka)

The following Act of Parliament received the assent of the President on the 26th December, 1992 and is hereby published for general information:

THE CENTRAL AGRICULTURAL UNIVERSITY ACT, 1992

[Act No. 40 of 1992] [26th December, 1992]

AN ACT

to provide for the establishment and incorporation of a University for the North-Eastern region for the development of agriculture and for the furtherance of the advancement of learning and prosecution of research in agriculture and allied sciences in that region.

Be it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

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Short title and commencement.

1. (*1*) This Act may be called the Central Agricultural University Act, 1992.

(*2*) It shall come into force on such date as the Central Government may, by notification in the *Official Gazette*, appoint.

Definitions.

2. In this Act, and in all Statutes made here under, unless the context otherwise requires,—

(*a*) "Academic Council" means the Academic Council of the University;

(*b*) "academic staff" means such categories of staff as are designated as academic staff by the Ordinances;

(*c*) "agriculture" means the basic and applied sciences of the soil and water management, crop production including production of all garden crops, control of plants, pests and diseases, horticulture including floriculture, animal husbandry including veterinary and dairy science, fisheries, forestry including farm forestry, homescience, agricultural engineering and technology, marketing and processing of agricultural and animal husbandry products, land use and management;

(*d*) "Board" means the Board of Management of the University;

(*e*) "Board of Studies" means the Board of Studies of the University;

(*f*) "Chancellor" means the Chancellor of the University;

(*g*) "college" means a constituent college of the University whether located at the headquarters, campus or elsewhere;

(*h*) "Department" means a Department of Studies of the University;

(*i*) "employee" means any person appointed by the University and includes teachers and other staff of the University;

(*j*) "extension education" means the educational activities concerned with the training of orchardists, farmers and other groups serving agriculture, horticulture, fisheries and improved practices related thereto and the various phases of scientific technology related to agriculture and agricultural production including post harvest technology and marketing;

(*k*) "Faculty" means Faculty of the University;

(*l*) "North-Eastern region" means the North-Eastern region of India comprising the States of Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Sikkim and Tripura;

(*m*) "Ordinances" means the Ordinances of the University;

(*n*) "Regulations" means the Regulations made by any authority of the University;

(*o*) "Research Advisory Committee" means the Research Advisory Committee of the University;

(*p*) "Statutes" means the Statutes of the University;

(*q*) "student" means a person enrolled in the University for undergoing a course of studies for obtaining a degree, diploma or other academic distinction duly instituted;

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(*r*) "teachers" means Professors, Associate Professors, Assistant Professors, Teaching Faculty Members and their equivalent appointed for imparting instruction or conducting research or extension education programmes or combination of these in the University, college or any institute maintained by the University and designated as teachers by the Ordinances;

(*s*) "University" means the Central Agricultural University established under this Act;

(*t*) "Vice-Chancellor" means the Vice-Chancellor of the University;

(*u*) "Visitor" means the Visitor of the University.

The University.

3. (*1*) There shall be established a University by the name of the "Central Agricultural University".

(*2*) The headquarters of the University shall be at Imphal in the State of Manipur and it may also establish campuses at such other places within its jurisdiction as it may deem fit.

(*3*) The first Chancellor and the first Vice-Chancellor and the first members of the Board, the Academic Council and all persons who may hereafter become such officers or members, so long as they continue to hold such office or membership are hereby constituted a body corporate by the name of the Central Agricultural University.

(*4*) The University shall have perpetual succession and a common seal and shall sue and be sued by the said name.

Objects of the University

4. The objects of the University shall be—

(*a*) to impart education in different branches of agricultural University and allied sciences as it may deem fit;

(*b*) to further the advancement of learning and prosecution of research in agriculture and allied sciences;

(*c*) to undertake programmes of extension education in the States under its jurisdiction; and

(*d*) to undertake such other activities as it may, from time to time, determine.

Powers of the University.

5. The University shall have the following powers, namely:—

(*i*) to make provision for instructions in agricultural and allied sciences;

(*ii*) to make provision for conduct of research in agricultural and allied branches of learning;

(*iii*) to make provision for dissemination of the findings of research and technical information through extension programmes;

(*iv*) to grant, subject to such conditions as it may determine, diplomas or certificates to, and confer degrees or other academic distinctions on the basis of examination, evaluation or any other method of testing, on persons, and to withdraw any such diplomas, certificates, degrees or other academic distinction for good and sufficient cause;

(*v*) to confer honorary degrees or other distinctions in the manner prescribed by the Statutes;

(*vi*) to provde lectures and instructions for field workers, village leaders and other persons not enrolled as regular students of the University and to grant certificates to them as may be prescribed by the Statutes;

(*vii*) to co-operate or collaborate or associate with any other University or authority or institution of higher learning in such manner and for such purposes as the University may determime;

(*viii*) to establish and maintain colleges relating to agriculture, fisheries, dairying, veterinary medicine and animal science, home science, agricultural engineering, foresty and allied sciences;

(*ix*) to establish and maintain such campuses, special centres, specialised laboratories, Libraries museums or other units for research-and instruction as are, in its opinon, necessary for the furtherance of its objects;

(*x*) to create teaching, research and extension education posts and to make appointments thereto;

(*ix*) to create administrative, ministerial and other posts and to make appointments thereto;

(*xii*) to institute and award fellowships, scholarships, studentships, medals and prizes;

(*xiii*) to determine standards of admission to the University, which may include examination, evaluation or any other method of testing;

(*xiv*) to provide and maintain residential accommodation for students and employees;

(*xv*) to supervise the residence of the students of the University and to make arrangements for promoting their health and general welfare;

(*xvi*) to lay down conditions of service of all categories of employees, including their code of conduct;

(*xvii*) to regulate and enforce discipline among the students and the employees, and to take such disciplinary measures in this regard as it may deem necessary:

(*xviii*) to fix, demand and receive such fees and other charges as may be prescribed by the Statutes.

(*xix*) to borrow, with the approval of the Central Government on the security of its property, money for the purpose of the University;

(*xx*) to receive benefactions, donations and gifts and to acquire, hold, manage and dispose of any property, movable or immovable, including trust and endowment properties for its purposes;

(*xxi*) to do all such other acts and things as may be necessary, incidental or conducive to the attainment of all or any of its objects.

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Jurisdiction.

6. (*1*) The jurisdiction and responsibility of the University with respect to teaching, research and programmes of extension education at the University level, in the field of agriculture shall extend to the States of Arunchal Pradesh, Manipur, Meghalaya, Mizoram, Sikkim and Tripura.

(*2*) All colleges, research and experimental stations or other institutions coming under the jurisdiction and authority of the University shall be its constituent units under the full management and control of its officers and authorities and no such units shall be recognised as affilited units.

(*3*) The University may assume responsibily for the traning of tield extension workers and others and may develop such training centres as may be required in various parts of the States under its jurisdiction.

University open to all classes, castes and creed.

7. The University shall be open to persons of either sex and of whatever caste, creed, race or class, and it shall not be lawful for the University to adopt or impose on any person, any test whatsoever of religious belief or profession in order to entitle him to be appointed as a teacher of the University or to hold any other office therein or be admitted as a student in the University or to graduate thereat or to enjoy or exercise any privilege thereof :

Provided that nothing in this section shall be deemed to prevent the University from making special provisions for the employment or admission of women, handicapped or of persons belonging to the weaker sections of the society and, in particular, of the Scheduled Castes and the Scheduled Tribes.

The Visitor.

8. (*1*) The President of India shall be the Visitor of the University.

(*2*) Subject to the provisions of sub-section (*3*) and (*4*), the Visitor shall have the right to cause an inspection to be made, by such person or persons as he may direct, of the University, its buildings, laboratories, libraries, museums, workshops and equipments, and of any institution or college and also of the examination, instruction and other work conducted or done by the University, and to cause an inquiry to be made in like manner in respect of any matter connected with the administration and finances of the University.

(*3*) The Visitor shall, in every case, give, notice to the University of his intention to cause an inspection or inquiry to be made and the University shall, on receipt of such notice, have the right to make, within thirty days from the date of receipt of the notice or such other period as the Visitor may determine, such representation to him as it may consider necessary.

(*4*) After considering the representation, if any, made by the University, the Visitor may cause to be made such inspection or inquiry as is referred to in sub-section (*2*).

(*5*) Where an inspection or inquiry has been caused to be made by the Visitor, the University shall be entitled to appoint a representative who shall have the right to appear in person and to be heard on such inspection or inquiry.

(*6*) The Visitor may address the Vice-Chancellor with reference to the results of such inspection or inquiry together with such views and advice with regard to the action to be taken thereon as the Visitor may be pleased to offer and on receipt of the address made by the Visitor, the Vice-Chancellor shall communicate forthwith to the Board the results of the inspection or inquiry and the views of the Visitor and the advice tendered by him upon the action to be taken thereon.

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(*7*) The Board shall communicate through the Vice-Chancellor to the Visitor such action, if any, as it proposes to take or has been taken by it upon the results of such inspection or inquiry.

(*8*) Where the Board does not, within a reasonable time, take action to the satisfaction of the Visitor, the Visitor may, after considering any explanation furnished or representation made by the Board, issue such directions as he may think fit and the Board shall be boundtocomply with such directions.

(*9*) Without prejudice to the foregoing provisions of this section, the Visitor may, by an order in writing, annual any proceeding of the University which is not in conformity with this Act, the Statutes or the Ordinance:

Provided that before making any such order, he shall call upon the University to show cause why such an order should not be made and, if any cause is shown within a reasonable time, he shall consider the same.

(*10*) The Visitor shall have such other powers as may be specified by the Statutes.

Officers of the University

9. The following shall be the officers of the University, namely :—

(*1*) the Chancellor;

(*2*) the Vice-Chancellor;

(*3*) Deans;

(*4*) Directors;

(*5*) the Registrar;

(*6*) the Comptroller; and

(*7*) such other officers as may be prescribed by the Statutes.

The Chancellor.

10. (*1*) The Chancellor shall be appointed by the Visitor in such manner as may be prescribed by the Statutes.

(*2*) The Chancellor shall, by virtue of his office, be the Head of the University.

(*3*) The Chancellor shall, if present, preside at the convocations of the University held for conferring degrees.

The Vice-Chancellor.

11. (*1*) The Vice-Chancellor shall be appointed by the Visitor in such manner as may be prescribed by the Statutes.

(*2*) The Vice-Chancellor shall be the principal executive and academic officer of the University and shall exercise general supervision and control over the affairs of the University and give effect to the decisions of all the authorities of the University.

(*3*) The Vice-Chancellor may, if he is of opinion that immediate action is necessary on any matter, exercise any power conferred on any authority of the University by or under this Act and shall report to such authority the action taken by him on such matter :

Provided that if the authority concerned is of opinion that such action ought not to have ben taken, it may refer the matter to the Visitor whose decision thereon shall be final:

Provided further that any person in the service of the University who is aggrieved by the action taken by the Vice-Chancellor under this sub-section shall have the right to appeal against such action to the Board within three months from the date on which decision on such action is communicated to him and thereupon the Board may confirm, modify or reverse the action taken by the Vice-Chancellor.

(*4*) The Vice-Chancellor, if he is of opinion that any decision of any authority of the University is beyond the powers of the authority conferred by the provisions of this Act, the Statutes or the Ordinances or that any decision taken is not in the interest of the University, may ask the authority concerned to review its decision within sixty days of such decision and if the authority refuses to review the decision either in whole or in part or no decision is taken by it within the said period of sixty days, the matter shall be reffered to the Visitor whose decision thereon shall be final.

(*5*) The Vice-Chancellor shall exercise such other powers and perform such other duties as may be prescribed by the Statutes or the Ordinances.

Deans and Directors.

12. Every Dean and every Director shall be appointed in such manner and shall exercise such powers and perform such duties as may be prescribed by the Statutes.

The Registrar.

13. (1)The Registrar shall be appointed in such manner as may be prescribed by the Statutes.

(*2*) The Registrar shall have the power to enter into agreements, sign documents and authenticate records on behalf of the University and shall exercise such powers and perform such duties as may be prescribed by the Statutes.

The Comptroller.

14. The Comptroller shall be appointed in such manner and shall exercise such powers and perform such duties as may be prescribed by the Statutes.

Other Officers.

15. The manner of appointment and powers and duties of the other officers of the University shall be prescribed by the Statutes.

Authorities of the University.

16. The following shall be the authorities of the University, namely :—

(*1*) the Board;

(*2*) the Academic Council;

(*3*) the Finance Committee;

(*4*) the Research Programme Committee;

(*5*) the Extension Education Advisory Committee;

(*6*) the Board of Studies; and

(*7*) such other authorities as may be prescribed by the Statutes.

The Board.

17. (*1*) The Board shall be the principal executive body of the University.

(*2*) The constitution of the Board, the term of office of its members and its powers and functions shall be prescribed by the Statutes.

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The Academic Council.

18. (*1*) The Academic Council shall be the principal academic body of the University and shall, subject to the provisions of this Act, the Statutes and Ordinances, have the control and general regulation of, and be responsible for, the maintenance of standards, of learning, education, instruction, evaluation and examination within the University and shall exercise such other powers and perform such other functions as may be conferred or imposed upon it by the Statutes.

(*2*) The constitution of the Academic Council and the term of office of its members shall be prescribed by the Statutes.

The Finance Committee

19. The constitution, powers and functions of the Finance Committee shall be prescribed by the Statutes.

The Research Programme Committee.

20. The constitution, powers and functions of the Research Programme Committee shall be prescribed by the Statutes.

The Extension Education Advisory Committee.

21. The constitution, powers and functions of the Extension Education Advisory Committee shall be prescribed by the Statutes.

The Board of Studies.

22. The constitution, powers and functions of the Board of Studies shall be prescribed by the Statutes.

Faculties.

23. The University shall have such Faculties as may be prescribed by the Statutes.

Other authorities.

24. The constitution, powers and functions of other authorities of the University referred to in clause (*7*) of section 16 shall be such as may be prescribed by the Statutes.

Power to make Statutes.

25. Subject to the provisions of this Act, the Statutes may provide for all or any of the following matters, namely:—

(*a*) the constitution, powers and functions of the authorities of the University, as may be constituted from tife to time;

(*b*) the appointment and continuance in office of the members of the said authorities, the filling up of vacancies of members, and all other matters relating to those authorities for which it may be necessary or desirable to provide;

(*c*) the appointment, powers and duties of the officers of the University and their emoluments;

(*d*) the appointment of teachers, academic staff and other employees of the University and their emoluments;

(*e*) the appointment of teachers and academic staff working in any other University or organisation for a specific period for undertaking a joint project;

(*f*) the conditions of service of employees including provision for pension, insurance and provident fund, the manner of termination of service and disciplinary action;

(*g*) the principles governing the seniority of service of the employees of the University;

(*h*) the procedure for arbitration in cases of dispute between employees or students and the University;

(*i*) the procedure for appeal to the Board by any employee or student against the action of any officer or authority of the University;

(*j*) the establishment and abolition of Departments, Centres, colleges and institutions;

(*k*) the conferment of honorary degrees;

(*l*) the withdrawal of degrees, diplomas, certificates and other academic distinctions;

(*m*) the institution of fellowships, scholarships, studentships, models and prizes;

(*n*) the delegation of powers vested in the authorities or officers of the University;

(*o*) the maintenance of discipline among the employees and students;

(*P*) all other matters which by this Act are to be, or may be, prescribed by the Statues.

Statutes how to be made.

26. (*1*) The first Statutes are those set out in the Schedule.

(*2*) The Board may from time to time make Statutes or may amend or repeal the Statutes referred to in sub-section (*1*):

Provided that the Board shall not make amend or repeal any Statute affecting the status, powers or constitution of any authority of the University until such authority has been given an opportunity of expressing an opinion in writing on the proposed changes, and any opinion so expressed shall be considered by the Board.

(*3*) Every Statutes or any amendment or repeal of a Statute shall require the assent of the Visitor who may assent thereto or withhold assent therefrom or remit it to the Board for consideration.

(*4*) A Statute or a Statute amending or repealing an existing Statute shall have no validity unless it has been assented to by the Visitor.

(*5*) Notwithstanding anything contained in the foregoing sub-section, the Visitor may amend or repeal the Statutes referred to in sub-section (*1*), during the period of three years immediately after the commencement of this Act.

(*6*) Notwithstanding anything contained in the foregoing sub-sections, the Visitor may direct the University to make provisions in the Statutes in respect of any matter specified by him and if the Board is unable to implement such direction within sixty days of its receipt, the Visitor may, after considering the reasons, if any, communicated by the Board for its inability to comply with such direction, make or amend the Statutes suitably.

Power to make Ordinances.

27. (*1*) Subject to the provisions of this Act and the Statutes, the Ordinances may provide for all or any of the following matters, namely:—

(*a*) the admission of students to the University and their enrolment as such;

(*b*) the courses of study to be laid down for all degrees, diplomas and certificates of

(*c*) the medium of instruction and examination;

(*d*) the award of degrees, diplomas, certificates and other academic distinctions, the qualifications for the same and the means to be taken relating to the granting and obtaining of the same;

(*e*) the fees to be charged for courses of study in the University and for admission to the examinations, degrees, diplomas and certificates of the University;

(*f*) the conditions for award of fellowships, scholarships, studentships, medals and prizes;

(*g*) the conduct of examinations, including the term of office and manner of appointment and the duties of examining bodies, examiners and moderators;

(*h*) the conditions of residence of the students;

(*i*) the special arrangements, if any, which may be made for the residence, discipline and teaching of women students and the prescrbing of special couress of studies for them;

(*j*) the appointment and emoluments of employees other than those for whom provision has been made in the Statutes;

(*k*) the establishment of special centres, specialized laboratories and other committees;

(*l*) the manner of co-operation and collaboration with other Universities and authorities including learned bodies or associations;

(*m*) the creation, composition and functions of any other body which is considered necessary for improving the academic life of the University;

(*n*) such other terms and coditions of service of teachers and other academic staff as are not prescribed by the Statutes;

(*o*) the management of colleges and institutions established by the University;

(*p*) the settng up of a machinery for redressal of grievances of employees; and

(*q*) all other matters which by this Act or the Statutes may be provided for by the Ordinances.

(2) The first Ordinance shall be made by the Vice-Chancellor with the previous approval of the Central Government and the Ordinances so made may be amended or repealed at any time by the Board in the manner prescribed by the Statues.

Regulations. **28.** The auuthorities of the University may make Regulations, consistent with this Act, the Statues and the Ordinances for the conduct of their own business and that of the committees appointed by them and not provided for by this Act, the Statutes or the Ordinances in the manner prescribed by the Statutes.

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Annual report.

29. (*1*) The annual report of the University shall be prepared under the direction of the direction of the Board, which shall include, among other matters, the steps taken by the University towards the fulfilment of its objects and shall be submitted to the Board on or after such date as may be prescribed by the Statutes and the Board shall consider the report in its annual meeting.

(*2*) The Board shall submit the annual report to the Visitor along with its comments, if any.

(*3*) A copy of the annual report as prepared under sub-section (*1*), shall also be submitted to the Central Government, which shall, as soon as may be, cause the same to be laid before both Houses of Parliament.

Annual accounts.

30. (*1*) The annual accounts of the University shall be prepared under the directions of the Board and shall, once at least every year and at intervals of not more than fifteen months, be audited by the Comptroller and Auditor-General of India or by such persons as he may authorise in this behalf.

(*2*) A copy of the annual accounts together with the audit report thereon shall be submitted to the Board and the Visitor along with the observations of the Board.

(*3*) Any observations made by the Visitor on the annual accounts shall be brought to the notice of the Board and the observations of the Board, if any, shall be submitted to the Visitor.

(*4*) A copy of the annual accounts together with the audit report as submitted to the Visitor, shall also be submitted to the Central Government, which shall, as soon as may be, cause the same to be laid before both Houses of Parliament.

(*5*) The audited annual accounts after having been laid before both Houses of Parliament shall be published in the *Official Gazette*.

Conditions of service of employees.

31. (*1*) Every employee of the University shall be appointed under a written contract, which shall be lodged with the University and a copy of which shall be furnished to the employee concerned.

(*2*) Any dispute arising out of the contract between the University and any employee shall, at the request of the employee, be referred to a Tribunal of Arbitration consisting of on member appointed by the Board, one member nominated by the employee concerned and an umpire appointed by the Visitor.

(*3*) The decision of the Tribunal shall be final, and no suit shall lie in any civil court in respect of the matters decided by the Tribunal.

of 1940.

(*4*) Every request made by the employee under sub-section (2) shall be deemed to be a submission to arbitration upon the terms of this section within the meaning of the Arbitration Act, 1940.

(*5*) The procedure for regulating the work of the Tribunal shall be prescribed by the Statutes.

Procedure of appeal and arbitration in disciplinary cases against students.

32. (*1*) Any student or candidate for an examination whose name has been removed from the rolls of the University by the orders or resolution of the Vice-Chancellor, Discipline Committee or Examination Committee, as the case may be, and who has been debarred from appearing at the examinations of the University for more than one year, may, within ten days of the date of receipt of such orders or copy of such resolution by him, Appeal to the Board and the Board may confirm, modify or reverse the decision of the Vice-Chancellor or the Committee, as the case may be.

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(2) Any dispute arising out of any disciplinary action taken by the University against a student shall, at the request of such student, be referred to a Tribunal of Arbitration and the provisions of sub-sections (*2*), (*3*), (*4*) and (*5*) of section 31 shall, as far as may be, apply to a reference made under this sub-section.

Right to appeal.

33. Every employee or student of the University or of a college or institution maintained by the University shall, notwithstanding anything contained in this Act, have a right to appeal, within such time as may be prescribed by the Statutes, to the Board against the decision of any officer or authority of the University or any college or an institution, as the case may be, and thereupon the Board may confirm, modify or reverse the decision appealed against.

Provident and pension funds.

34. (1) The University shall constitute for the benefit of its employees such provident or pension fund or provide such insurance schemes as it may deem fit in such manner and subject to such conditions as may be prescribed by the Statutes.

(2) Where such provident fund or pension fund has been so constituted, the Central Government may declear that the provision of the Provident Funds Act, 1925, shall apply to such fund, as if it were a Government provident fund. 19 of 1925

Disputes as to constitution of University authorities.

35. If any question arises as to whether any person has been duly appointed as, or is entitled to be, a member of any authority of the University, the matter shall be referred to the Visitor whose decesion thereon shall be final.

Constitution of Commitees.

36. Where any authority of the University is given power by this Act or the Statutes to appointed Committees, such Committees shall save as otherwise provided, consist of the members of the authority concerned and of such other person, if any, as the authority in each case may think fit.

Filling of casual vacancles.

37. All casual vacancies among the member (other than *ex officio* members) of any authority of the University shalll be filled, as soon as may be, by the person who appointed or co-opted the member whose place has become vacant and person appointed or co-opted to a causal vacancy shall be a member of such authority or body for the residue of the term for which the person whose place he fills would have been a member.

Proceedding of University authorities not invalidated by vacancy.

38. No act or proceedings of any authority of the University shall be invalid merely by reason of the existence of a vacancy or vacancies among its members.

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Protection of action taken in good faith.

39. No suit, prosecution or other legal proceedings shall lie against the Board, any authority or officer or other employee of the University for anything which is in good faith done or intended to be done in pursuance of any of the provisions of this Act, the Statutes or the Ordinances.

Mode of proof of University records.

40. A copy of any receipt, application, notice, order, proceeding, resolution of any authority or Committee of the University, or other documents in possession of the University, or any entry in any register duly maintained by the University, if verified by the Registrar, shall be received as *prima facie* evidence of such receipt, application, notice, order, proceeding, resolution or documents or the existence of entry in the register and shall be admitted as evidence of the matters and transactions therein where the original thereof would, if produced, have been admissible in evidence, notwithstanding anything contained in the Indian Evidence Act, 1872 or in any other law for the time being in force. 1 of 1872.

Power to remove difficulties.

41. (*1*) If any difficulty arise in giving effect to the provisions of this Act, the Central Government may, by order published in the *Official Gazette* make such provisions, inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made under this section after the expiry of three years from the commencement of this Act.

(*2*) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Transitional provisions.

42. Notwithstanding anything contained in this Act and the Statutes,—

(*a*) the first Chancellor and the Vice-Chancellor shall be appointed by the Visitor and shall hold office for a term of five years;

(*b*) the first Registrar and the Comptroller shall be appointed by the Visitor and each of the said officers shall hold office for a term of three years;

(*c*) the first members of the Board shall be nominated by the Visitor and shall hold office for a term of three years;

(*d*) the first members of the Academic Council shall be nominated by the Visitor and shall hold office for a term of three years;

Provided that if any vacancy occurs in the above offices or authorities, the same shall be filled by appointment or nomination, as the case may be, by the Visitor, and the person so appointed or nominated shall hold office for so long as the officer or member in whose place he is appointed or nominated would have held office, if such vacancy had not occurred.

Statutes, Ordinances and Regulations to be published in the Official Gazette and to be laid before Parliament.

43. (*1*) Every Statute, Ordinance or Regulation made under this Act shall be published in the *Official Gazette*.

(*2*) Every Statute, Ordinance or Regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the Statute, Ordinance or Regulation or both Houses agree that the Statute, Ordinance or Regulation shall not be made, the Statute, Ordinance or Regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that Statute, Ordinance or Regulation.

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(3) The power to make Statutes, Ordinances or Regulations shall include the power to give retrospective effect from a date not earlier than the date of commencement of this Act, to the Statutes, Ordinances or Regulations or any of them but no retrospective effect shall be given to any Statute, Ordinance or Regulation so as to prejudicially affect the interests of any persons to whom such Statutes, Ordinances or Regulations may be applicable.

THE SCHEDULE

(*See* section 26)

THE STATUTES OF THE UNIVERSITY

The Chancellor

1. (*1*) The Chancellor shall be appointed by the Visitor from a panel of not less than three persons recommended by the Board from amongst persons of eminence in education in general and agricultural sciences in particular:

Provided that if the Visitor does not approve of any of the persons so recommended he may call for fresh recommendations from the Board.

(*2*) The Chancellor shall hold office for a term of five years and shall not be eligible for reappointment:

Provided that notwithstanding the expiry of his term of office, the Chancellor shall continue to hold office until his successor enters upon his office.

The Vice-Chancellor

2. (*1*) The Vice-Chancellor shall be appointed by the Visitor from a panel of not less than three persons who shall be recommended by a Committee as constituted under clause (*2*):

Provided that if the Visitor does not approve of any of the persons included in the panel, he may call for a fresh panel.

(*2*) The Committee referred to in clause (*1*), shall consist of a nominee of the Visitor, the Director-General of the Indian Council of Agricultural Research and the Secretary to the North-Eastern Council, set-up under section 3 of the North-Eastern Council Act, 1971 (84 of 1971) and the nominee of the Visitor shall be the convener of this Committee.

(*3*) The Vice-Chancellor shall be a whole-time salaried officer of the University.

(*4*) The Vice-Chancellor shall hold office for a term of five years from the date on which he enters upon his office, or until he attains the age of sixty-five years, whichever is earlier and he shall not be eligible for reappointment:

Provided that notwithstanding the expiry of the said period of five years, he shall continue in office until his successor is appointed and enters upon his office:

Provided further that the Visitor may direct any Vice-Chancellor after his term has expired, to continue in office for such period, not exceeding a total period of one year, as may be specified by him.

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(*5*) The emoluments and other conditions of service of the Vice-Chancellor shall be as follows:—

(*i*) The Vice-Chancellor shall be paid a monthly salary and allowances other than the house rent allowance, at the rates fixed by the Central Government from time and he shall be entitled, without payment of rent, to use a furnished residence throughout his term of office and no charge shall fall on the Vice-Chancellor in respect of the maintenance of such residence.

(*ii*) The Vice-Chancellor shall be entitled to such terminal benefits and allowances as may be fixed by the Board with the approval of the Visitor from time to time:

Provided that where an employee of the University or a college or an institution maintained by it, or of any other University or any Institution maintained by or affiliated to such other University, is appointed as the Vice-Chancellor, he may be allowed to continue to contribute to any provident fund of which he is a member and the University shall contribute to the account of such person in that provident fund at the same rate at which the person had been contributing immediately before his appointment as the Vice-Chancellor:

Provided further that where such employee had been a member of any pension scheme, the University shall make the necessary contribution to such scheme.

(*iii*) The Vice-Chancellor shall be entitled to travelling allowance at such rate as may be fixed by the Board.

(*iv*) The Vice-Chancellor shall be entitled to leave on full pay at the rate of thirty days in a calendar year and the leave shall be credited to his accoount in advance in two half-yearly instalments of fifteen days each on the 1st day of January and July every year;

Provided that if the Vice-Chancellor assumes or relinquishes charge of the office of the Vice-Chancellor during the currency of a half year, the leave shall be credited proportionately at the rate of two and-a-half days for each completed month of service.

(*v*) In addition to the leave referred to in sub-clause (*iv*), the Vice-Chancellor shall also be entiled to half pay leave at the rate of twenty days for each competed year of service. This half pay leave may also be availed of as commuted leave on full pay on medical certificate. When commuted leave is availed, twice the amount of half pay leave shall be debited against half pay leave due.

(*6*) If the office of the Vice-Chancellor becomes vacant due to death, registration or otherwise, or if he is unable to perform his duties due to ill health any other cause, the senior-most Dean or Director, as the case may be, shall perform the duties of the Vice-Chancellor until a new Vice-Chancellor assumes office or until the Vice-Chancellor attends to the duties of his office, as the case may be.

Powers and duties of the Vice-Chancellor

3. (*1*) The Vice-Chancellor shall be *ex-officio* Chairman of the Board the Academic Council and the Finance Committee and shall, in the absence of the Chancellor, preside at the convocations held for conferring degrees.

(*2*) The Vice-Chancellor shall be entitled to be present at, and address, any meeting of any authority of the University, but shall not be entitled to vote thereat unless he is a member of such authority.

(*3*) It shall be the duty of the Vice-Chancellor to see that this Act, the Statutes, the Ordinances and the Regulations are duly observed, and he shall have all the powers necessary to ensure such observance.

(*4*) The Vice-Chancellor shall exercise control over the affairs of the University and shall give effect to the decisions of all the authorities of the University.

(*5*) The Vice-Chancellor shall have all the powers necessary for the proper maintenance of discipline in the University and he may delegate any such powers to such or persons as he may deem fit.

(*6*) The Vice-Chancellor shall have the power to convene or cause to be convened the meetings of the Board, the Academic and the Finance Committee.

Deans of colleges

4. (*1*) Every Dean of a college shall be appointed bythe Vice-Chancellor from among the Professors in the college for a period of five years and he shall be eligible for reappointment:

Provided that a Dean on attaining the age of sixty years shall cease to hold office as such:

Provided further that it at any time there is no Professor in a college, the Vice-Chancellor, or a Dean authorised by the Vice-Chancellor in this behalf, shall exercise the powers of the Dean of the college.

(*2*) When the office of the Dean is vacant or when the Dean is, by reason of illness, absence or any other cause, unable to perform duties of his office, the duties of the office shall be performed by such person as the Vice-chancellor may appoint for the purpose.

(*3*) The Dean shall be the Head of the college and shall be responsible for the conduct and maintenance of the standards of teaching and research in the college and shall have such other functions as may be prescribed by the Ordinances.

(*4*) The Dean shall have the right to be present and to speak at any meeting of the Board of Studies or Committees of the college, as the case may be, but shall not have the right to vote thereat unless he is a member thereof.

Director Instruction

5. (*1*) The Director Instruction shall be appointed by the Board on the recommendation of a Selection Committfee constituted for the purpose and he shall be a whole-time salaried officer of the University.

(*2*) The Director Instruction shall hold office for a term of five years and shall be eligible for reappointment:

Provided that the Director Instruction on attaining the age of sixty years shall cease to hold office as such.

(*3*) The Director Instruction shall be responsible for planning coordination and supervision for all educational programmes in the various faculties of the University.

The Director of Research

6. (*1*) The Director of Research shall be appointed by the Board on the recommendation of a Selection Committee constituted for the purpose and he shall be a whole-time salaried officer of the University.

(*2*) The Director of Research shall hold office for a term of five years and shall be eligible for reappointment:

Provided that the Director of Research on attaining the age of sixty years shall cease to hold office as such.

(3) The Director of Research shall be responsible for the supervision and coordination of research programmes in the University.

The Director of Extension Education

7. (1) The Director of Extension Education shall be appointed by the Board on the recommendation of a Selection Committee constituted for the purpose and he shall be a whole-time salaried officer of the University.

(2) The Director of Extension Education shall hold office for a term of five years and shall be eligible for reappointment:

Provided that the Director of Extension Education on attaining the age of sixty years shall cease to hold office as such.

(3) The Director of Extension Education shall be responsible for the supervision and Coordination of all Extension Education Programmes of the University.

Registrar

8. (1) The Registrar shall be appointed by the Board on the recommendation of a Selection Committee constituted for the purpose and shall be a whole-time salaried officer of the University.

(2) He shall be appointed for a term of five years and shall be eligible for appointment.

(3) The emoluments and other terms and conditions of service of the Registrar shall be such as may be prescribed by the Ordinances:

Provided that the Registrar shall retire on attaining the age of sixty years:

Provided further that a Registrar shall, notwithstanding his attaining the age of sixty years, continue in office until his successor is appointed and enters upon his office or until the expiry of a period of one year, whichever is earlier.

(4) When the office of the Registrar is vacant or when the Registrar is, by reason of illness, absence, or any other cause, unable to perform the duties of his office, the duties of the office shall be performed by such person as the Vice-Chancellor may appoint for the purpose.

(5) (a) The Registrar shall have power to take disciplinary action against such of the employees, excluding teachers, as may be specified in the order of the Board and to suspend them pending inquiry, to administer warnings to them or to impose on them the penalty of censure or the with holding of increment;

Provided that no such penalty shall be imposed unless the person concerned has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him.

(b) An appeal shall lie to the Vice-Chancellor against any order of the Registrar imposing any of the penalties specified in sub-clause (a).

(c) In a case where the inquiry discloses that a punishment beyond the power of the Registrar is called for, the Registrar shall, upon conclusion of the inquiry, make a report to the Vice-Chancellor along with his recommendations:

Provided that an appeal shall lie to the Board against an order of the Vice-Chancellor imposing any penalty.

(6) The Registrar shall be *ex offico* Secretary of the Board and the Academic Council, but shall not be deemed to be a member of any of these authorities.

(7) It shall be the duty of the Registrar—

(a) to be the custodian of the records, the common seal and such other property of the University as the Board shall commit to his charge;

(b) to issue all notices convening meetings of the Board, the Academic Council and of any Committees appointed by those authorities;

(c) to keep the minutes of all the meetings of the Board, the Academic Council and of any Committees appointed by those authorities;

(d) to conduct the official correspondence of the Board and the Academic Council;

(e) to arrange for and superintend the examinations of the University in accordance with the manner prescribed by the Ordinances;

(f) to supply to the Visitor, copies of the agenda of the meetings of the authorities of the University as soon as they are issued; and the minutes of such meetings;

(g) to represent the University in suits or proceedings by or against the University, sign powers-of-attorney and verify pleadings or depute his representatives for the purpose; and

(h) to perform such other duties as may be specified in the Statutes, the Ordinances or the Regulations or as may be required, from time to time, by the Board or the Vice-Chancellor.

The Comptroller

9. (1) The Comptroller shall be appointed by the Board on the recommendations of a Selection Committee constituted for the purpose and he shall be a whole-time salaried officer of the University.

(2) He shall be appointed for a term of five years and shall be eligible for reappointment.

(3) The emoluments and other terms and conditions of service of the Comptroller shall be such as may be prescribed by the Ordinances:

Provided that Comptroller shall retire on attaining the age of sixty years;

Provided further that the Comptroller shall, notwithstanding his attaining the age of sixty years, continue in office until his successor is appointed and enters upon his office or until the expiry of a period of one year, whichever is earlier.

(4) When the office of the Comptroller is vacant or when the Comptroller is, by reason of illness, absence or any other cause, unable to perform the duties of his office, the duties of the office shall be performed by such person as the Vice-Chancellor may appoint for the purpose.

(5) The Comptroller shall be *ex officio* Secretary of the Finance Committee, but shall not be deemed to be a member of such Committee.

(6) The Comptroller shall—

(*a*) exercise general supervision over the funds of the University and shall advise it as regards its financial policy; and

(*b*) perform such other financial functions as may be assigned to him by the Board or as may be prescribed by the Statutes or the Ordinances.

(7) Subject to the control of the Board, the Comptroller shall—

(*a*) hold and manage the property and investments of the University including trust and endowed property;

(*b*) ensure that the limits fixed by the Board for recurring and non-recurring expenditure for a year are not exceeded and that all moneys are expended on the purpose for which they are granted or allotted;

(*c*) be responsible for the preparation of annual accounts and the budget of the University and for their presentation to the Board;

(*d*) keep a constant watch on the state of the cash and bank balances and on the state of investments;

(*e*) watch the progress of the collection of revenue and advise on the methods of collection employed;

(*f*) ensure that the registers of buildings, land, furniture and equipment are maintained up-to-date and that stock-checking is conducted, of equipment and other consumable materials in all offices, Specialised Laboratories, Colleges and Institutions maintained by the University;

(*g*) bring to the notice of the Vice-Chancellor unauthorised expenditure and other financial irregularities and suggest disciplinary action against persons at fault; and

(*h*) call for from any office, Laboratory, College or Institution maintained by the University any information or returns that he may consider necessary for the performance of his duties.

(8) Any receipt given by the Comptroller or the person or persons duly authorised in this behalf by the Board for any money payable to the University shall be sufficient discharge for payment of such money.

Heads of Departments

10. (*1*) Each Department shall have a Head who shall be not below the rank of an Associate Professor and whose duties and functions and terms and conditions of appointment shall be prescribed by the Ordinances:

Provided that if there is more than one Professor in any Department, the Head of the Department shall be appointed by the Board on the recommendation of the Vice-Chancellor from among the Professors:

Provided further that in the case of Departments where there is only one Professor, the Board shall have the option to appoint, on the recommendation of the Vice-Chancellor, either the Professor or an Associate Professor as the Head of the Department;

Provided also that in a Department where there is no Professor, an Associate Professor may be appointed as the Head of the Department by the Board on the recommendation of the Vice-Chancellor:

Provided also that if there is no Professor or Reader, in a Department, the Dean of College concerned shall act as the Head of the Department.

(3) It shall be open to a Professor or an Associate Professor to decline the offer of appointment as the Head of the Department.

(*3*) A Professor or an Associate Professor appointed as the Head of the Department shall hold office as such for a period of three years and shall be eligible for reappointment.

(*4*) A Head of a Department may resign his office at any time during his tenure of office.

(*5*) A Head of a Department shall perform such function as may be prescribed by the Ordinances.

Librarians

11. (*1*) Every Librarian shall be appointed by the Board on the recommendations of the Selection Committee constituted for the purpose and he shall be a whole-time salaried officer of the University.

(*2*) Every Librarian shall exercise such powers and perform such duties as may be assigned to him by the Board.

Constitution, powers and functions of the Board.

12. (*1*) The Board shall consist of the following members, namely:—

(*i*) the Vice-Chancellor, *ex officio* Chairman;

(*ii*) two secretaries from amongst the secretaries in charge of the Departments of Agriculture and Forests of a State in the North-Eastern region to be nominated by the Visitor by rotation in the alphabetical order to represent that State;

(*iii*) two eminent scientists to be nominated by the Visitor;

(*iv*) two distinguished persons representing Agro-based industries to be nominated by the Visitor;

(*v*) the Deputy Director-General (Education) representing the Indian Council of Agricultural Research;

(*vi*) the Secretary to the North-Eastern Council set up under section 3 of the North-Eastern Council Act, 1971 (84 of 1971);

(*vii*) one Dean of college and one Director to be nominated by the Vice-Chancellor on rotational basis;

(*viii*) two persons representing farmers in the States of the North-Eastern region to be nominated by the Vice-Chancellor by rotation in the alphabetical order of those states.

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(*ix*) an industrialist or a manufacturer having special knowledge in agricultural development to be nominated by the Visitor;

(*x*) one woman social worker representing women social organisation in the North-Eastern region;

(*xi*) an Advisor (Agriculture), Planning Commission;

(*xii*) a distinguished authority on forestry, social forestry or environment management to be nominated by the Visitor;

(*xiii*) three persons not below the rank of Joint Secretary representing respectively the Departments of the Central Government dealing with Agriculture, Animal Husbandry and Forestry; and

(*xiv*) the Registrar of the University, Secretary.

(2) The terms of office of the members of the Board, other than *ex-officio* members, shall be two years.

(*3*) The Board shall have the power of management and administration of the revenue and property of the University and the conduct of all administrative affairs of the University not otherwise provided for.

(*4*) Subject to the provisions of this Act, the Statutes and the Ordinances, the Board shall, in addition to all other powers vested in it, have the following powers, namely:—

(*i*) to create teaching and academic posts, to determine the number and emoluments of such posts and to define the duties and conditions of service of teachers and other academic staff and Deans of colleges, Directors and heads of other institutions maintained by the University;

(*ii*) to appoint such teachers and other academic staff, as may be necessary, and Deans of colleges, Directors and heads of other institutions maintained by the University on the recommendation of the Selection Committee constituted for the purpose and to fill up temporary vacancies therein;

(*iii*) to create administrative, ministerial and other necessary posts and to make appointments thereto in the manner prescribed by the Ordinances;

(*iv*) to grant leave of absence to any officer of the University other than the Chancellor and the Vice-Chancellor, and to make necessary arrangements for the discharge of the functions of such officer during his absence;

(*v*) to regulate and enforce discipline among employees in accordance with the Statutes and the Ordinances;

(*vi*) to manage and regulate the finances, accounts investments, property, business and all other administrative affairs of the University, and for that purpose to appoint such agents as it may think fit;

(*vii*) to fix limits on the total recurring and the total nonrecurring expenditure for for a year on the recommendations of the Finance Committee:

(*viii*) to invest any money belonging to the University, including any unapplied income, in such stocks, funds, shares or securities, from time to time, as it may think fit or in the purchase of immovable property in India, with the lirk powers of varying such investment from time to time;

(*ix*) to transfer or accept transfers of any movable or immovable property on behalf of the University;

(*x*) to provide buildings, premises, furniture and apparatus and other means needed for carrying on the work of the University;

(*xi*) to enter into, vary, carry out and cancel contracts on behalf of the University;

(*xii*) to entertain, adjudicate upon, and, if thought fit, to redress any grivances of the employees and students of the University;

(*xiii*) to appoint examiners and moderators and, if necessary, to remove them, and to fix their fees, emoluments and travelling and other allowances, after consulting the Academic Council;

(*xiv*) to select a common seal for the University and provide for the custody and use of such seal;

(*xv*) to make such special arrangements as may be necessary for the residence and disciplin of women students;

(*xvi*) to delegate any of its powers to the Vice-Chancellor, the Deans, Directors, the Registrar or the Comptroller or such other employee or authority of the University or to a committee appointed by it as it may deem fit;

(*xvii*) to institute fellowships, scholarships, studentships, medals and prizes;

(*xviii*) to provide for the appointment of Visiting Professors, Emeritus Professors; Consultants and Scholars and determine the terms and conditions of such appointment; and

(*xix*) to exercise such other powers and perform such other duties as may be conferred or imposed on it by the Act, or the Statutes.

Quorum for meetings of the Board

13. Seven members of the Board shall form a quorum for a meeting of the Board.

Construction and powers of the Academic Council

14. (*1*) The Academic Council shall consist of the following members, namely:—

(*i*) the Vice-Chancellor, *ex officio* Member;

(*ii*) all the Deans of the colleges of the University;

(*iii*) the Director of Research of the University;

(*iv*) the Director of Extension Education of the University;

(*v*) the Director Instruction;

(*vi*) a Librarian to be nominated by the Vice-Chancellor on rotational basis;

(*vii*) five outstanding teachers to be co-opted from outside the University representing different Faculties;

(*viii*) seven heads of the Department to be nominated by the Vice-Chancellor;

(*ix*) the Education Officer or his representative to be nominated by the North-Eastern Council set up under section 3 of the North-Eastern Council Act, 1971 (84 of 1971);

(*x*) the Registrar of the University, *ex officio* Member-Secretary.

(*2*) The term of office of the members of the Academic Council other than *ex officio* members shall be two years.

(*3*) Subject to the Act, the Statutes and the Ordinances, the Academic Council shall, in addition to all other powers vested in it, have the following powers, namely:—

(*a*) to exercise general supervision over the academic policies of the University and to give directions regarding methods of instructions, co-operative teaching among colleges and institutions, evaluation of research or improvements in academic standards;

(*b*) to bring about inter-college coordination to establish or appoint committees or boards, for taking up projects on an inter-college basis;

(*c*) to consider matters of general academic interest either on its own initiative or on a reference by a college or the Board and to take appropriate action thereon; and

(*d*) to frame such regulations and rules consistent with the Statutes and the Ordinances regarding the academic functioning of the University, discipline, residences, admissions, award of fellowships and studentships, fees, concessions, corporate life and attendance.

Quorum for meetings of the Academic Council

15 Nine members of the Academic Council shall form a quorum for a meeting of the Academic Council.

Board of Studies

16. (*1*) Each Department shall have a Board of Studies.

(*2*) The constitution of a Board of Studies and the term of office of its members shall be provided by the Ordinances.

(*3*) The functions of a Board of Studies shall be to approve subjects for research for various degrees and other requirements of research degrees and to recommend to the concerned Board in the manner prescribed by the Ordinances—

(*a*) courses of studies and appointment of examiners for courses, but excluding research degrees;

(*b*) appointment of supervisors of research; and

(*c*) measures for the improvement of the standard of teaching and research:

Provided that the above functons of a Board of Studies shall, during the period of three years immediately after the commencment of the Act, be performed by the Department.

Finance Committee

17. (*1*) The Finance Committee shall consist of the following members, namely:—

(*i*) the Vice-Chancellor;

(*ii*) the Financial Adviser, Indian Council of Agricultural Research;

(*iii*) three persons to be nominated by the Board, out of whom at least one shall be a member of the Board;

(*iv*) three persons to be nominated by the Visitor; and

(*v*) the Comptroller of he University, Member-Secretary.

(*2*) Five members of the Finance Committee shall form a quorum for a meeting of the Finance Committee.

(*3*) The members of the Finance Committtee, other than *ex officio* members, shall hold office for a term of three years.

(*4*) A members of the Finance Committee shall have the right to record a minute of dissent if he does not agree with any decision of the Finance Committee.

(*5*) The Fiance Committee shall meet at least twice a year to examine the accounts and to scrutinise proposals for expenditure.

(*6*) Every proposal relating to creation of posts, and those items which have not been included in he Budget, should be examined by the Finance Committee before they are considered by the Board.

(*7*) The annaul accounts and the financial estimates of the University prepared by the Comptroller shall be laid before the Finance Committee for consideration and comments and thereafter submitted to the Board for approval.

(*8*) The Finance Committee shall recommend limits for the total recurring expenditure and the total non-recurring expenditure for the year, based on the income and resources of the University (which, in the case of productive works, may include the proceeds of loans).

Selection Committees

18. (*1*) There shall be a Selection Committee for making recommendations to the Board for appointment to the posts of teachers, Comptroller, Registrar, Librarian, Deans of colleges, Directors and heads of other institutions maintained by the University.

(*2*) The Selection Committee for appointment to the posts specified in column 1 of the Table below shall consist of the Vice-Chancellor, Director Instruction, Director of Research, Director of Extension Education, a nominee of the Visitor and the persons specified in the correeponding entry in column 2 of the Said Table:

TABLE

1	2
Professor	(*i*) The Head of the Department concerned if he is a Professor. (*ii*) One Professor to be nominated by the Vice-Chancellor. (*iii*) Three persons not in the service of the University, nominated by the Board, out of a panel of names recommended by the Academic Council for their special knowledge of, or interest in, the subject with which the Professor will be concerned.
Associate Professor/ Assistant Professor	(*i*) The Head of the Department concerned. (*ii*) One Professor to be nominated by the Vice-Chancellor. (*iii*) Two persons not in the service of the University, nominated by the Board, out of a panel of names recommended by the Academic Council for their special knowledge of, or interest in, the subject with which the Associate Professor/Assistant Professor will be concerned.
Registrar, Comptroller	(*i*) Two members of the Board nominated by it; and (*ii*) One person not in the service of the University, nominated by the Board.
Librarian	Two persons not in the service of the University, who have special knowledge of the subject of the Library Science/Library Administration to be nominated by the Board.
Dean of College, Directors or head of other institution maintained by the University	Three persons not in the service of the University of whom two shall be nominated by the Board and one by the Academic Council for their special knowledge of, or interest in, a subject in which instruction is being provided by the college or institution.

NOTE:— 1. Where the appointment is being made for an inter-disciplinary project, the head of the project shall be deemed to be the Head of the Department concerned.

2. The Professor to be nominated shall be Professor concerned with the speciality for which the selection is being made and that the Vice-Chancellor shall consult the Head of the Department and the Dean of college before nominating the Professor.

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(3) The Vice-Chancellor, or in his absence, his nominee shall preside at the meetings of a Selection Committee:

Provided that the meetings of the Selection Committee shall be fixed after prior consulation with, and subject to the convenience of Visitor's nominee and the persons nominated by the Board under clause (2):

Provided further that the proceedings of the Selection Committee shall not be valid unless,—

(a) where the number of Visitor's nominee and the persons nominated by the Board is four in all, at least three of them attend the meeting; and

(b) where the number of Visitor's nominee and the persons nominated by the Board is three in all, at least two of them attend the meeting.

(4) The meeting of a Selection Committee shall be convened by the Vice-Chancellor or in his absence by his nominee.

(5) The procedure to be followed by a Selection Committee in making recommendations shall be laid down in the Ordinances.

(6) If the Board is unable to accept the recommendations made by a Selection Committee, it shall record its reasons and submit the case to the Visitor for final orders.

(7) Appointments to temporary posts shall be made in the manner indicated below:—

(i) If the temporary vacancy is for a duration longer than one academic session, it shall be filled of the advice of the Selection Committee in accordance with the procedure indicated in the foregoing clauses:

Provided that if the Vice-Chancellor is satisfied that in the interests of work it is necessary to fill the vacancy, the appointment may be made on a purely temporary basis by a local Selection Committee referred to in sub-clause (ii) for a period not exceeding six months.

(ii) If the temporary vacancy is for a period less than a year, an appointment to such vacancy shall be made on the recomendation of a local Selection Committee consisting of the Dean of the college concerned, the Head of the Department and a nominee of the Vice-chancellor:

Provided that if the same person holds the offices of the Dean and the Head of the Department ,the Selection Committee may contain two nominees of the Vice-Chancellor:

Provided further that in case of sudden casual vacancies of teaching posts caused by death or any other reason, the Dean may, in consultation with the Head of the Department concerned, make a temporary appointment for a month and report to the Vice-Chancellor and the Registrar about such appointment.

(iii) No teacher appointed temporary shall, if he is not recommended by a regular Selection Committee for appointment under the Statutes, be continued in service on such temporary employment, unless he is subsequently selected by a local Selection Committee or a regular Selection Committee for a temporary or permanent appointment, as the case may be.

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Special mode of appointment

19 (*1*) Notwithstanding anything contained in Statute 18, the Board may invite a person of high academic distinction and professional attainments to accept a post of Professor or Associate Professor or any other academic post in the University, as the case may be, on such terms and conditions as it deems fit, and on the person agreeing to do so appoint him to the post.

(*2*) The Board may appoint a teacher or any other academic staff working in any other University or organisation for undertaking a joint project in accordance with the manner laid down in the Ordinances.

Appointment for a fixed tenure

20. The Board may appoint a person selected in accordance with the procedure laid down in Statute 18 for a fixed tenure on such terms and conditions as it deems fit.

Recognised teachers

21. (*1*) The qualifications of recognised teachers shall be such as may be prescribed by the Ordinances.

(*2*) All applications for the recognition of teachers shall be made in such manner as may be laid down in the Ordinances.

(*3*) No teacher shall be recognised as a teacher except on the recommendation of a Selection Committee constituted for the purpose in the manner laid down in the Ordinances.

(*4*) The period of recognition of a teacher shall be determined by the Ordinances made in that behalf.

(*5*) The Academic Council may, by a special resolution passed by a majority of not less than two-thirds of the members present and Voting, withdraw recognition from a teacher :

Provided that no such resolution shall be passed until notice in writing has been given to the person concerned calling upon him to show cause, within such time as may be specified in the notice, why such resolution should not be passed and until his objections, if any, and any evidence he may produce in support of them have been considered by the Academic Council.

(*6*) Any person aggrieved by a order of withdrawal under clause (*5*) may, with three months from the date of communication to him of such order, appeal to the Bord which may pass such orders thereon as it thinks fit.

Committees

22. (*1*) The authorities of the University specified in section 16 may appoint as many standing or special committees as it may deem fit, and may appoint to such committees persons who are not members of such authority.

(*2*) Any such committee appointed under clause (1) may deal with any subject delegated to it subject to confirmation by the authority appointing it.

Terms and conditions of service and code of conduct of the teachers, etc.

23. (*1*) All the teachers and other academic staff of the University shall, in the absence of any agreement to the contrary, be governed by the terms and conditions of service and code of conduct as are specified in the Statutes, the Ordinances and the Regulations.

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(*2*) Every teacher and member of the academic staff of the University shall be appointed on a written contract, the form of which shall be prescribed by the Ordinances.

(*3*) A copy of every contract referred to in clause (2) shall be deposited with the Registrar.

Terms and conditions of service and code of conduct of other employees

24. All the employees of the University, other than the teachers and other academic staff of the University, shall, in the absence of any contract to the contrary, be governed by the terms and conditions of service and code of conduct as are specified in the Statutes, the Ordinances and the Regulations.

Seniority list

25. (*1*) Whenever, in accordance with the Statutes, any person is to hold an office or be a member of an authority of the University by rotation according to seniority, such seniority shall be determined according to the length of continuous service of such person in his grade and, in accordance with such other principles as the Board may, from time to time, prescribe.

(*2*) It shall be the duty of the Registrar to prepare and maintain, in respect of each class of persons to whom the provisions of these Statutes apply, a complete and up-to-date seniority list in accordance with the provisions of clause (1).

(*3*) If two or more persons have equal length of continuous service in a particular grade or the relative seniority of any person or persons is otherwise in doubt, the Registrar may, on his own motion and shall, at the request of any such person, submit the matter to the Board whose decision thereon shall be final.

Removal of employees of the University

26. (*1*) Where there is an allegation of misconduct against a teacher, a member of the academic staff or other employee of the University, the Vice-Chancellor, in the case of the teacher or member of the academic staff, and the authority competent to appoint (hereinafter referred to as the appointing authority) in the case of other employee, may, by order in writing, place such teacher, member of the academic staff or other employee, as the case may be, under suspension and shall forthwith report to the Board the circumstances in which the order was made :

Provided that the Board may, if it is of the opinion, that the circumstances of the case do not warrant the suspension of the teacher or a member of the academic staff, revoke such order.

(*2*) Notwithstanding anything contained in the terms of the contract of appointment or of any other terms and conditions of service of the employees, the Board in respect of teachers and other academic staff, and the appointing authority, in respect of other employees, shall have the power to remove a teacher or a member of the academic staff, or as the case may be, other employees on grounds of misconduct.

(*3*) Save as aforesaid the Board or as the case may be, the appointing authority, shall not be entitled to remove any teacher, member of the academic staff or other employee except for a good cause and after giving three months' notice or on payment of three months' salary in lieu thereof.

(*4*) No teacher, member of the academic staff or other employee shall be removed under clause (2) or clause (3) unless he has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him.

(*5*) The removal of a techer, member of the academic staff or other employee shall take effect from the date on which the order of removal is made:

Provided that where the teacher, member of the academic staff or other employee is under suspension at the time of his removal, such removal shall take effect from the date on which he was placed under suspension.

(6) Notwithstanding anything contained in the foregoing provisions of this Statute, a teacher, member of the academic staff or other employee may resign,—

(a) if he is a permanent employee, only after giving three months' notice in writing to the Board or the appointing authority, as the case may be, or by paying three months' salary in lieu thereof:

(b) if he is not a permanent employee, only after giving one month's notice in writing to the Board or, as the case may be, the appointing authority or by paying one month's salary in lieu thereof:

Provided that such resignation shall take effect only on the date on which the resignation is accepted by the Board or the appointing authority, as the case may be.

Honorary degrees

27. (1) The Board may, on the recommendation of the Academic Council and by a resolution passed by a majority of not less than two-thirds of the members present and voting, make proposals to the Visitor for the conferment of honorary degrees:

Provided that in case emergency, the Board may, on its own motion, make such proposals.

(2) The Board may, by a resolution passed by a majority of not less than two-thirds of the members present and voting, withdraw, with the previous sanction of the Visitor, any honorary degree conferred by the University.

Withdrawal of degrees, etc.

28. The Board may, by a special resolution passed by a majority of not less than two-thirds of the members present and voting, withdraw any degree or academic conferred on, or any certificate or diploma granted to, any person by the University for good and sufficient cause:

Provided that no such resolution shall be passed until a notice in writing has been given to that person calling upon him to show cause within such time as may be specified in the notice why such a resolution should not be passed and until his objections, if any, and any evidence he may produce in support of them, have been considered by the Board.

Maintenance of discipline among students of the University

29. (1) All powers relating to discipline and disciplinary action in relation to students of the University shall vest in the Vice-Chancellor.

(2) The Vice-Chancellor may delegate all or any of his powers as he deems proper to such officers as he may specify in this behalf.

(3) Without prejudice to the generality of his powers relating to the maintenance of discipline and taking such action, as may seem to him appropriate for the maintenance of discipline, the Vice-Chancellor may, in exercise of his powers, by order, direct that any student or students be expelled, or rusticated, for a specified period, or be not admitted to a course or courses of study in a college, institution or Department of the University for a stated period, or be punished with fine for an amount to be specified in the order, or be debarred from taking an examination or examinations conducted by the University, college, institution or Department for one or more years, or that the results of the student or students concerned in the examination or examinations in which he or they have appeared be cancelled.

(4) The Deans of colleges, institutions and Heads of teaching Departments in the University shall have the authority to exercise all such disciplinary powers over the students in their respective colleges, institutions and teaching Departments in the University as may be necessary for the proper conduct of such colleges, institutions and teaching in the Departments.

(5) Without prejudice to the powers of the Vice-Chancellor, the Deans and other persons specified in clause (4), detailed rules of discipline and proper conduct shall be made by the University. The Deans of colleges, institutions and Heads of teaching Departments in the University may also make the supplementary rules as they deem necessary for the aforesaid purposes.

(6) At the time of admission, every student shall be required to sign a declaration to the effect that he submits himself to the disciplinary jurisdiction of the Vice-Chancellor and oher authorities of the University.

Maintenance of discipline among students of colleges, etc.

30. All powers relating to discipline and disciplinary action in relation to students of a college or an institution maintained by the University, shall vest in the Dean of the college or institution, as the case may be, in accordance with the procedure prescribed by the Ordinances.

Advisory Committee

31. Every college or institution maintained by the University shall have an Advisory Committee consisting of not more than fifteen persons which shall consist of, among others, three teachers including the Dean of the college or institution, and two teachers of the University nominated by the Board.

Convocations

32. Convocations of the University for the conferring of degrees or for other purposes shall be held in such manner as may be prescribed by the Ordinances.

Acting Chairman

33. When no provision is made for a Chairman to preside over a meeting of any authority of the University or any committee of such authority or when the Chairman so provided for is absent, the members present shall elect one from among themselves to preside at such meeting.

Resignation

34. Any member, other than an *ex officio* member of the Board, Academic Council or any other authority of the University or any committees of such authority may resign by letter addressed to the Registrar and the resignation shall take effect as soon as such letter is received by the Registrar.

Disqualifications

35. (*1*) A person shall be disqualified for being chosen as, and for being, a member of any of the authorities of the University,—

(*i*) if he is of unsound mind;

(*ii*) if he is an undischarged insolvent;

(*iii*) if he has been convicted by a court of law of an offence involving moral turpitude and sentenced in respect thereof to imprisonment for a period of not less than six months.

(2) If any question arises as to whether a person is or had been subjected to any of the disqualifications mentioned in clause (1) the question shall be referred to the Visitor and his decision thereon shall be final and no suit or other proceeding shall lie in any civil court against such decision.

Residence condition for membership and office

36. Notwithstanding anything countained in the Statutes, a person who is not ordinarily resident in India shall be eligible to be an officer of the University or a member of any authority of the University.

Membership of authorities by virtue of membership of other bodies

37. Notwithstanding anything contained in the Statutes, a person who holds any post in the University or is a member of any authority of the University in his capacity as a member of a particular authority or as the holder of a appointment shall hold such office or membership only for so long as he continues to be a member of that particular authority or the holder of that particular appointment, as the case may be.

Alumni Association

38. (*1*) There shall be an Alumni Association for the University.

(*2*) The subscription for membership of the Alumni Association shall be prescribed by the Ordinances.

(*3*) No member of the Alumni Association shall be entitled to vote or stand for election unless he has been a member of the Association for at least one year prior to the date of the election and is a degree holder of the University of at least five years standing:

Provided that the condition relating to the completion of one year's membership shall not apply in the case of the first election.

Student's Council

39. (*1*) There shall be constituted in the University, a Students' Council for every academic year, consisting of—

(*i*) the Director Instruction who shall be the Chairman of the Students' Council;

(*ii*) all students, who have won prizes in the previous academic year in the field of studies, fine arts, sports and extension work;

(*iii*) twenty students to be nominated by the Academic Council on the basis of merit in studies, sports, activities and all-round development of personality:

Provided that any student of the University shall have the right to bring up any matter concerning the University before the students' Council if so permitted by the Chairman, and he shall have the right to participate in the discussions at any meeting when the matter is taken up for consideration.

(*2*) The functions of the Students' Council shall be to make suggestions to the appropriate authorities of the University in regard to the programmes of studies, students' welfare and other matters of importance shall be made on the basis of consensus of opinion.

(*3*) The Students' Council shall meet at least once in an academic year preferably in the beginning of that year.

Ordinances how made

40. (*1*) The first Ordinances made under sub-section (2) of section 27 may be amended or repealed at any time by the Board in the manner specified below.

(*2*) No Ordinance in respect of the matters enumerated in section 27 other than those enumerated in clause (*n*) of sub-section (*1*) thereof, shall be made by the Board unless a draft of such Ordinance has been proposed by the Academic Council.

(*3*) The Board shall not have power to amend any draft of any Ordinance proposed by the Academic Council under clause (2), but may reject the proposal or return the draft to the Academic Council for reconsideration, either in whole or in part, together with any amendment which the Board may suggest.

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(4) Where the Board has rejected or returned the draft of an Ordinance proposed by the Academic Council, the Academic Council may consider the question afresh and in case the original draft is reafirmed by a majority of not less than two-thirds of the members present and voting and more than half the total numer of members of the Academic Council, the draft may be sent back to the Board which shall either adopt it or refer it to the Visitor whose decision shall be final.

(5) Every Ordinance made by the Board shall come into effect immediately.

(6) Every Ordinance made by the Board shall be submitted to the Visitor within two weeks from the date of its adoption. The Visitor shall have the power to direct the University within four weeks of the receipt of the Ordinance to suspend the operation of any such Ordinance and he shall, as soon as possible, inform the Board about his objection to the proposed Ordinance. The Visitor may, after receiving the comments of the University either withdraw the order suspending the Ordinance, or disallow the Ordinance, and his decision shall be final.

Regulations

41. (*1*) The authorities of the University may make Regulations consistent with the Act, the Students and the Ordinances for the following matters, namely:—

(*i*) laying down the procedure to be observed at their meetings and the number of members required to form a quorum;

(*ii*) providing for all matters which as required by the Act, the Statutes of the Ordinances to be prescribed by Regulations;

(*iii*) providing for all other matters concerning such authorities or committees appointed by them and not provided for by the Act, the Statutes of the Ordinances.

(*2*) Every authority of the University shall make Regulations providing for the giving of notice to the members of such authority of the dates of meeting and of the business to be considered at meeting and for the keeping of a record of the proceedings of meetings.

(*3*) The Board may direct the amendment in such manner as it may specify, of any Regulation made under the Statutes or the annulment of any such Regulation.

Delegation of powers

42. Subject to the provisions of the Act and the Statutes, any officer or authority of the University may delegate his or its powers to any other officer or authority or person under his or its respective control and subject to the condition that overall responsibility for the exercise of the powers so delegated shall continue to vest in the officer or authority delegating such powers.

SHRI K. L. MOHANPURIA,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

B. K. SHAH,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART—VI

Acts of Parliament and Ordinances promulgated by the President.

GOVERNMENT OF GUJARAT

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, 12th May, 1993.

No. RP/50/93/1/93/Research.—The following Act of Parliament is re-published for general information:—

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 1st January, 1993/Pausa 11, 1914 (Saka)

The following Act of Parliament received the assent of the President on the 31st December, 1992 and is hereby published for general information:—

THE NATIONAL HIGHWAYS (AMENDMENT) ACT, 1992.

[ACT No. 1 OF 1993.] [31ST DECEMBER, 1992.]

AN ACT

further to amend the National Highways Act, 1956.

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

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Short title and commencement.

1. (*1*) This Act may be called the National Highways (Amendment) Act, 1992.

(*2*) It shall be deemed to have come into force on the 23rd day of October, 1992.

Amendment of section 7.

2. In section 7 of the National Highways Act, 1956 (hereinafter referred to as the principal Act), in sub-section (*1*), after the words "on national highways" the words "and the use of sections of national highways" shall be inserted.

48 of 1956.

Amendment of section 9.

3. In section 9 of the principal Act, in sub-section (*2*), in clause (b), after the words "national highway", the words "and the use of sections of any national highway" shall be inserted.

Repeal and saving.

4. (*1*) The National Highways (Amendment) Ordinance, 1992 is hereby repealed.

Ord. 19 of 1992.

(*2*) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

Sd/-
SHRI K. L. MOHANPURIA,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

B. K. SHAH,
Secretary to Government.

Government Central Press, Gandhinagar.

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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

GOVERNMENT OF GUJARAT

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, 12th May, 1993.

No. RP/51/93/Consti 72/92/Research.—The following Act of Parliament is re-published for general information:—

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 4th December, 1992/Agrahayana 13, 1914 (saka)

The following Act of Parliament received the assent of the President on the 4th December, 1992 and is hereby published for general information:

THE CONSTITUTION (SEVENTY-SECOND AMENDMENT) ACT, 1992.

[4TH DECEMBER, 1992]

AN ACT

further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

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Short title and commencement.

1. (*1*) This Act may be called the Constitution (Seventy-Second Amendment) Act, 1992.

(*2*) It shall come into force on such date as the Central Government may, by notification in the *Official Gazette*, appoint.

Amendment of article 332.

2. (*1*) In article 332 of the Constitution, after clause (3A), the following clause shall be inserted, namely:—

> "(3B) Notwithstanding anything contained in clause (3), until the re-adjustment, under article 170, takes effect on the basis of the first census after the year 2000, of the number of seats in the Legislative Assembly of the State of Tripura, the seats which shall be reserved for the Scheduled Tribes in the Legislative Assembly shall be, such number of seats as bears to the total number of seats, a proportion not less than the number, as on the date of coming into force of the Constitution (Seventy-second Amendment) Act, 1992, of members belonging to the Scheduled Tribes in the Legislative Assembly in existence on the said date bears to the total number of seats in that Assembly.".

(*2*) The amendment made to article 332 of the Constitution by sub-section (*1*) shall not affect any representation in the Legislative Assembly of the State of Tripura until the dissolution of the Legislative Assembly existing at the commencement of this Act.

Sd/-
SHRI K. L. MOHANPURIA,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

B. K. SHAH,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, 9th July, 1993.

No. RP/55/93/41/92/Research.—The following Act of Parliament is re-published for general information:—

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 30th December, 1992/Pausa 9, 1914 (Saka).

The following Act of Parliament received the assent of the President on the 29th December, 1992 and is hereby published for general information:—

THE INFANT MILK SUBSTITUTES, FEEDING BOTTLES AND INFANT FOODS (REGULATION OF PRODUCTION, SUPPLY AND DISTRIBUTION) ACT, 1992.

[Act No. 41 of 1992] **[29th December, 1992]**

AN ACT

to provide for the regulation of production, supply and distribution of infant milk substitutes, feeding bottles and infant foods with a view to the protection and promotion of breast-feeding and ensuring the proper use of infant foods and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

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Short title, extent and commencement.

1. (*1*) This Act may be called the Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act, 1992.

(*2*) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. (*1*) In this Act, unless the context otherwise requires,—

(*a*) "advertisement" includes any notice, circular, label, wrapper and other documents and also includes any visible representation or announcement made by means of any light, sound, smoke or gas;

(*b*) "container" means a box, bottle, casket, tin, can, barrel, case, tube, receptacle, sack, wrapper or other thing in which any infant milk substitute, feeding bottle or infant food is placed or packed for sale or distribution;

(*c*) "feeding bottle" means any bottle or receptacle used for the purpose of feeding infant milk substitutes and includes a teat and a valve attached or capable of being attached to such bottle or receptacle;

(*d*) "health care system" means an institution or organisation engaged, either directly or indirectly, in health care for mothers, infants or pregnant women, and includes a health worker in private practice, but does not include a pharmacy or drug store;

(*e*) "health worker" means a person engaged in health care for mothers, infants or pregnant women;

(*f*) "infant food" means any food (by whatever name called) being marketed or otherwise represented as a complement to mother's milk to meet the growing nutritional needs of the infant after the age of four months;

(*g*) "infant milk substitute" means any food being marketed or otherwise represented as a partial or total replacement for mother's milk, whether or not it is suitable for such replacement;

(*h*) "lable" means a display of written, marked, stamped, printed or graphic matter affixed to, or appearing upon, any container;

(*i*) "prescribed" means prescribed by rules made under this Act.

(*2*) Any reference in this Act to any other enactment or any provision there of shall, in relation to an area in which such enactment or such provision is not in force, be construed as a reference to the corresponding law or the relevant provision of the corresponding law, if any, in force in that area.

Certaion prohibitions in relation to infant milk substitutes, feeding bottles and infant foods.

3. No person shall—

(*a*) advertise, or take part in the publication of any advertisement, for the distribution, sale or supply of infant milk substitutes or feeding bottles; or

(*b*) give an impression or create a belief in any manner that feeding of infant milk substitutes is equivalent to, or better than mother's milk; or

(*c*) take part in the promotion of use or sale of infant milk substitutes or feeding bottles or infant foods otherwise than in accordance with the provisions of this Act.

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Prohibition of incentives for the use or sale of infant milk substitutes or feeding bottles.

4. No person shall—

(a) supply or distribute samples of infant milk substitutes or feeding bottles or gifts of utensils or other articles; or

(b) contact any pregnant woman or the mother of an infant; or

(c) offer inducement of any other kind.

for the purpose of promoting the use or sale of infant milk substitutes or feeding bottles.

Donations of Infant milk substitutes or feeding bottles or equipment or mateirals relating thereto.

5. Subject to the provisions of sub-section (4) of section 8, no person shall donate or distribute—

(a) infant milk substitutes or feeding bottles to any other person except to an orphanage :

(b) any informational or educational equipment or material relating to infant milk substitutes or feeding bottles ;

Provided that nothing in this clause shall apply to the donation or distribution subject to such conditions and restrictions as may be prescribed, of such equipment or material through the health care system.

information on containers and labels of infant milk substitutes or infat foods.

6. (1) Without prejudice to the provisions of the Prevention of Food Adulteration Act, 1954 and the rules made thereunder, no person shall produce, supply or distribute any infant milk substitute or infant food unless every container thereof or any label affixed thereto indicates in a clear, conspicuous and in an easily readable and understandable manner, the words "important notices" in capital letters in such language as may be prescribed and indicating thereunder the following particulars in the same language, namely:— of 1954.

(a) a statement "mother's milk is best for your baby" in capital letters ;

(b) a statement that infant milk substitute or infant food should be used only on the advice of a health worker as to the need for its use and the proper method of its use ;

(c) a warning that infant milk substitute or infant food is not the sole source of nourishment of an infant ;

(d) the instructions for its appropriate preparation and a warning against the health hazards of its inappropriate preparation ;

(e) the ingredients used ;

(f) the composition or analysis ;

(g) the storage conditions required ;

(h) the batch number, date of its manufacture and the date before which it is to be consumed, taking into account the climatic and storage conditions of the country ;

(i) such other particulars as may be prescribed.

(2) No container or lable referred to in sub-section (1) relating to infant milk substitute shall—

(a) have pictures of an infant or a women or both ; or

(b) have pictures or other graphic material or phrases designed to increase the saleability of infant milk substitute ; or

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(c) use on it the word "humanised" or "maternalised" or any other similar word or

(d) bear on it such other particulars as may be prescribed.

Educational and other materials relating to feeding of infants to contain certain particulars.

7. (1) Every educational or other material, whether audio or visual, dealing with pre-natal or post-natal care or with the feeding of an infant and intended to reach pregnant women or mothers of infants shall include clear information relating to—

(a) the benefits and superiority of breast-feeding ;

(b) the preparation for, and the continuance of, breast-feeding;

(c) the harmful effects on breast-feeding due to the partial adoption of bottle feeding ;

(d) the difficulties in reverting to breast-feeding of infants after a period of, feeding by infant milk substitute ;

(e) the financial and social implications in making use of infant milk substitutes and feeding bottles ;

(f) the health hazards of improper use of infant milk substitutes and feeding bottles ;

(g) such other matters as may be prescribed .

(2) No material referred to in sub-section (1) shall be utilised to promote the use or sale of infant milk substitutes or feeding bottles .

Halth care system.

8. (1) No person shall use any health care system for the display of placards or posters relating to, or for the distribution of, materials for the purpose of promoting the use or sale of infant milk substitutes or feeding bottles or infant foods ;

Provided that the provisions of this sub-section shall not apply or—

(a) the donation or distribution of informational or educational equipment or material made in accordance with the proviso to clause (b) of section 5; and

(b) the dissemination of information to a health worker about the scientific and factual matters relating to the use of infant milk substitutes or feeding bottles or infant foods along with the information specified in sub-section (1) of section 7.

(2) No person who produces, supplies, distributes or sells infant milk substitutes or feeding bottles or infant foods shall make any payment to any person who works in the health care system for the purpose of promoting the use or sale of such substitutes or bottles or foods.

(3) No person, other than a health worker, shall demonstrate feeding with infant milk substitutes or infant foods to a mother of an infant or to any member of her family and such health worker shall also clearly explain to such mother or such other member the hazards of improper use of infant milk substitutes or feeding bottles or infant foods.

(4) No person, other than an institution or organisation, enagaged in health care for mothers, infants or pregnant women, shall distribute infant milk substitutes or feeding bottles to a mother who cannot resort to breast-feeding and who cannot afford to purchase infant milk substitutes or feeding bottles ;

(5) An orphanage may purchase infant milk substitutes or feeding bottles at a price lower than their sale price for the purpose of utilising them in the said orphanage.

Explanation.—For the purposes of this sub-section, such purchases shall not amount to an inducement for promoting the use or sale of infant milk substitutes or feeding bottles.

Inducement to health worker for promoting use of innt milk substitutes, etc.

9. (*1*) No person who produces, supplies, distributes or sells infant milk substitutes or feeding bottles or infant foods shall offer or give, directlyor indirectly, any financial inducements or gifts to a health worker or to any member of his family for the purpose of promoting the use of such substitutes or bottles or foods.

(*2*) Where such person makes any contribution to, or incurs any expenditure on, a health worker, either directly or indirectly, such person and such health worker shall disclose the same to the institution or organisation to which such health worker is attached.

Special provision relating to employees of person who produces, supplies distributes or sells infant milk substitutes, etc.

10. (*1*) No person who produces, supplies, distributes or sells infant milk substitutes or feeding bottles or infant foods shall fix the remuneration of any of his employees or give any commission to such employees on the basis of the volume of sale of such substitutes or bottles or foods made by such employees.

(*2*) The employees of such person shall not perform any function which relates to educating a pregnant woman or mother of an infant on pre-natal or post-natal care of the infant.

Standards of infant milk substitute, feeding bottlles or infant foods.

11. (*1*) No person shall sell or otherwise distribute any infant milk substitute or infant food unless it conforms to the standards, specified for such substitute or food under the Prevention of Food Adulteration Act, 1954 and the rules made thereunder and the container thereof has the relevant Standard Mark specified by the Bureau of Indian Standards established under section 3 of the Bureau of Indian Standards Act, 1986 to indicate that the infant milk substitute or infant food conforms to such standards : 37 of 1954. 3 of 1986.

Provided that where no standards have been specified for any infant milk substitute or infant food under the Prevention of Food Adulteration Act, 1954, no person shall sell or otherwise distribute such substitute or food unless he has obtained the approved of the Central Government in relation to such substitute or food and the label affixed to the container thereof under the rules made under that Act. 37 of 1954.

(*2*) No person shall sell or otherwise distribute any feeding bottle unless it conforms to the Standard Mark specified by the Bureau of Indian Standards referred to in sub-section (*1*) for feeding bottles and such mark is affixed on its container.

Power of entry and search.

12. (*1*) Any food inspector appointed under section 9 of the Prevention of Food Adulteration Act, 1954 (hereinafter referred to as the food inspector) or any officer not below the rank of a Class I officer authorised in this behalf by the State Government (hereinafter referred to as the authorised officer) may, if he has any reason to believe that any provision of section 6 or section 11 has been or is being contravened, enter and search at any reasonable time any factory, building, business premises or any other place where any trade or commerce in infant milk substitutes or feeding bottles or infant foods is carried on or such substitutes or bottles or foods are produced, supplied or distributed. 37 of 1954.

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(2) The provisions of the Code of Criminal Procedure, 1973, relating to searches and seizures shall, so far as may be, apply to every search or seizure made under this Act. 2 of 1974.

Power to seize infant milk substitutes, etc., or containers thereof

13. (*1*) If any food inspector or authorised officer has reason to believe that in respect of any infant milk substitute or feeding bottle or infant food or container thereof, the provisions of this Act have been or are being contravened, he may seize such substitute or bottle or food or container.

(*2*) No such substitute or food or bottle or container shall be retained by any food inspector or authorised officer for a period exceeding ninety days from the date of its seizure unless the approval of the District Judge, within the local limits of whose jurisdiction such seizure has been made, has been obtained for such retention.

Confiscation.

14. Any infant milk substitute or feeding bottle or inafant food or container thereof, in respect of which any provision of this Act has been or is being contravened, shall be liable to confiscation:

Provided that where it is established to the satisfaction of the court adjudging the confiscation that the person in whose possession, power or control any such substitute or bottle or food or container is found is not responsible for the contravention of the provisions of this Act, the court may, instead of making an order for the confiscation of such substitute or bottle or food or container, make such other order authorised by this Act against the person guilty of the breach of the provisions of this Act as it may think fit.

Power to give option to pay cost in lieu of confiscaton.

15. (*1*) Whenever any confiscation is authorised by this Act, the court adjudging it may, subject to such conditions as may be specified in the order adjudging the confiscation, give to the owner thereof an option to pay in lieu of confiscation such cost not exceeding the value of the infant milk substitute or feeding bottle or infant food or container thereof in respect of which the confiscation is authorised as the court thinks fit.

(*2*) On payment of the cost ordered by the court the seized infant milk substitute or feeding bottle or infant food or container shall be returned to the person from whom it was seized on the condition that such person shall, before making any distribution, sale or supply of such substitute or bottle or food or container, give effect to the provisions of this Act.

Confiscation not to interfere with other punishments.

16. No confiscation made or cost ordered to be paid under this Act shall prevent the infliction of any punishment to which the person affected thereby is liable under the provisions of this Act or under any other law.

Adjudicaton.

17. Any confiscation may be adjudged or costs may be ordered to be paid,—

(*a*) without any limit, by the principal civil court of original jurisdiction within the local limits of whose jurisdiction such confiscation has been made or costs have been ordered to be paid, as the case may be;

(*b*) subject to such limits as may be specified by the Central Government in this behalf, by such other court, not below a civil court having pecuniary jurisdiction exceeding five thousand rupees, as the Central Government may, by notification in the Official Gazette, authorise in this behalf.

Giving of opportunity to the owner of the seized infant milk substitute or feeding bottle or infant food or container thereof.

18. (*1*) No order adjudicating confiscation or directing payment of costs shall be made unless the owner of the infant milk substitute or feeding bottle or infant food or container thereof has been given a notice in writing informing him of the grounds on which it is proposed to confiscate such substitute or bottle or food or container and giving him a reasonable opportunity of making a representation in writing, within such reasonable time as may be specified in the notice, against the confiscation and if he so desires, of being heard in the matter:

Provided that where no such notice is given within a period of ninety days from the date of the seizure of the infant milk substitute or feeding bottle or infant food or container thereof, such substitute or bottle or food or container shall be returned after the expiry of that period to the person from whose possession it was seized.

5 of 1908. (*2*) Save as otherwise provided in sub-section (*1*), the provisions of the Code of Civil Procedure, 1908, shall, so far as may be, apply to every proceeding referred to in sub-section (*1*).

Appeal.

19. (*1*) Any person aggrieved by any decision of the court adjudicating a confiscation or ordering the payment of costs may prefer an appeal to the court to which an appeal lies from the decision of such court.

(*2*) The appellate court may, after giving the appellant an opportunity of being heard, pass such order as it thinks fit confirming, modifying or revising the decision or order appealed against or may send back the case with such directions as it may think fit for a fresh decision or adjudication, as the case may be after taking additional evidence if necessary:

Provided that an order enhancing any fine in lieu of confiscation or for confiscating goods of greater value shall not be made under this section unless the appellant has had an opportunity of making a representation and if he so desires of being heard in his defence.

(*3*) No further appeal shall lie against the order of the court made under sub-section (*2*).

Penalty.

20. (*1*) Any person who contravenes the provisions of section 3, 4, 5, 7, 8, 9, 10 or sub-section (*2*) of section 11 shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to five thousand rupees, or with both.

(*2*) Any person who contravenes the provisions of section 6 or sub-section (*1*) of section 11 shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to three years and with fine which shall not be less than two thousand rupees:

Provided that the court, may, for any adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term which shall not be less than three months but which may extend to two years and with fine which shall not be less than one thousand rupees.

Cognizance of offences.

2 of 1974. **21.** (*1*) Save as otherwise provided in section 173 of the Code of Criminal Procedure, 1973, no court shall take cognizance of any offence punishable under this Act, except upon a complaint in writing made by—

37 of 1954. (*a*) a person authorised in this behalf under sub-section (*1*) of section 20 of the Prevention of Food Adulteration Act, 1954; or

2 of 1974. (*b*) an officer not below the rank of a Class I officer authorised in this behalf, by general or special order, by the Government, or

(*c*) a representative of such voluntary organisation engaged in the field of child welfare and development and child nutrition as the Government may, by notification in the Official Gazette, authorise in this behalf.

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(*2*) where a complaint has been made by a representative of the voluntary organisation authorised under clause (c) of sub-section (*1*) and the court has issued a summons or, as the case may be, a warrant under sub-section (*1*) of section 204 of the Code of Criminal Procedure, 1973, the Assistant Public Prosecutor for that court shall take charges of the case and conduct the prosecution. **2 of 1974.**

Offences by companies.

22. (*1*) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(*2*) Notwithstanding anything contained in sub-section (*1*), where any offence under this Act has been committed by a company any it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly;

Explanation.—For the purposes of this section,—

(*a*) "company" means any body corporate and includes, a firm or other association of individuals; and

(*b*) "director" in relation to a firm, means a partner in the firm.

Offences to be cognizaable and bailable.

23. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, an offence punishable under this Act shall be,— **2 of 1974.**

(*a*) bailable ;

(*b*) cognizable.

Protection of action taken in good faith.

24. No suit, prosecution or other legal proceeding shall lie against the Central Government or any State Government or any officer of the Central Government or of any State Government for anything which is in good faith done or intended to be done under this Act.

Application of Act 37 of 1954 not barred.

25. The provisions of this Act or the rules made thereunder shall be in addition to, and not in derogation of, the Prevention of Food Adulteration Act, 1954, or the rules made thereunder.

Power to make rules.

26. (*1*) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the conditions and restrictions subject to which educational equipment and other material may be donated or distributed under the proviso to clause (*b*) of section 5 ;

(*b*) the language in which the notice and other particulars shall be indicated under sub-section (*1*) of section 6 :

(*c*) the particulars which are to be indicated under clause (i) of sub-section (1) of section 6 ;

(*d*) the particulars which a container or label shall not bear under clause (*d*) of sub-section (*2*) of section 6 ;

(*e*) the matters to be included in the information which reaches pregnant women or mothers of infants under clause (*g*) of sub-section (*1*) of section 7;

(*f*) any other matter which is required to be, or may be, prescribed.

(*3*) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and, if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Sd/-.
SHRI K. L. MOHANPURIA,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

B. K. SHAH,
Secretary to Government.

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, 30th July, 1993.

No. RP/74/93/Ord. 24/93/Research : The following Ordinance promulgated by the President and published in the Gazette of India, Extra-ordinary, Part-II, Section I, dated the 18th June, 1993 is republished for general information :—

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 18th June, 1993/Jyaistha,28 1915 (Saka)

THE CONSUMER PROTECTION (AMENDMENT) ORDINANCE, 1993

No. 24 of 1993

Promulgated by the President in the Forty-fourth Year of the Republic of India.

An Ordinance further to amend the Consumer Protection Act, 1986.

Whereas a Bill further to amend the Consumer Protection Act, 1986, has been introduced in Parliament but has not yet been passed.

And Whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action to give effect to the provisions of the Bill;

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Now, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:-

Short title and commencement.

1. (*1*) This Ordinance may be called the Consumer Protection (Amendment) Ordinance, 1993.

(*2*) It shall come into force at once.

68 of 1986.

Amendment of section 2.

2. In section 2 of the Consumer Protection Act, 1986 (hereinafter referred to as the principal Act), in sub-section (*1*).—

(*1*) for clause (a), the following clause shall be substituted, namely :-

(*a*) "appropriate laboratory" means a laboratory or organisation-

(*i*) recognised by the Central Government.

(*ii*) recognised by a State Government, subject to such guidelines as may be prescribed by the Central Government in this behalf; or

(*iii*) any such laboratory or organisation established by or under any law for the time being in force, which is maintained, financed or aided by the Central Government or a State Government for carrying out analysis or test of any goods with a view to determining whether such goods suffer from any defect;

(*2*) after clause (a), the following clause shall be inserted, namely-

'(aa) "branch office" means-

(*i*) any establishment described as a branch by the opposite party; or

(*ii*) any establishment carrying on either the same or substantially the same activity as that carried on by the head office of the establishment;';

(*3*) in clause (b), after sub-clause (iii), the following sub-clause shall be inserted, namely:-

"(*iv*) one or more consumers, where there are numerous consumers having the same interest;";

(*4*) in clause (c),

(*A*) for sub-clause (*i*), the following sub-clause shall be substituted namely:—

"(*i*) an unfair trade practice or a restrictive trade practice has been adopted by any trader;";

(*B*) in sub-clause (*ii*), for the words "the goods mentioned in the complaint", the words "the goods bought by him or agreed to be bought by him" shall be substituted;

(*C*) in sub-clause (*iii*), for the words "the services mentioned in the complaint", the words "the services hired or availed of or agreed to be hired or availed of by him" shall be substituted;

(*D*) after sub-clause (*iv*), the following sub-clause shall be inserted, namely:-

"(*v*) goods which will be hazardous to life and safety when used, are being offered for sale to the public in contravention of the provisions of any law for the time being in force requiring traders to display information in regard to the contents, manner and effect of use of such goods.";

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(*5*) in clause (d).—

(*A*) in sub-clause (ii), for the word "hires", in both the places where it ocurs, the words "hires or avails of" shall be substituted;

(*B*) after sub-clause (ii), the following *Explanation* shall be insertcd at the end, namely:—

'*Explanation.*—For the purposes of sub-clause (*i*), "commercial purpose" does not include use by a consumer of goods bought and used by him exclusively for the purpose of earning his livelihood, by means of self-employment;';

(*6*) in culase (*f*), after the words "for the time being in force or", the words "under any contract, express or implied, or" shall be inserted;

(*7*) after clause (*j*), the following clause shall be inserted, namely:—

'(*jj*) "member" includes the President and a member of the National Commission or a State Commission or a District Fourm, as the case may be;';

(*8*) after clause (*n*), the following clause shall be inserted, namely:—

'(*nn*)"restrictive trade practice" means any trade practice which requries a consumer to buy, hire or avail of any goods or, as the case may be, services as a condition precedent for buying, hiring or availing of other goods or services;';

(*9*) in cluase (*o*), after the words "board or lodging or both,", the words "housing construction," shall be inserted;

(*10*) for clause (*r*), the following clause shall be substituted, namely:-

'(*r*) "unfair trade practice" means a trade practice which, for the purpose of promoting the sale, use or supply of any goods or for the provision of any service, adopts any unfair method or unfair or deceptive practice including any of the following practices, namely:—

(*1*) the practice of making any statement, whether orally or in writing or by visible representation which,—

(*i*) falsely represents that the goods are of a particular standard, quality, quantity, grade, composition style or model;

(*ii*) falsely represents that the services are of a particular standard, quality or grade;

(*iii*) falsely represents any re-built, second-hand, renovated reconditioned or old goods as new goods;

(*iv*) represents that the goods or services have sponsorship, approval, performance, characteristics, accessories,uses or benfits which such goods or services do not have;

(*v*) represents that the seller or the supplier has a sponsorship or approval or affiliation which such seller or supplier does not have;

(*vi*) makes a false or misleading representaion concerning the need for, or the usefulness of, any goods or services;

(*vii*) gives to the public any warranty or guarantee of the performance, efficacy or length of life of a product or of any goods that is not based on an adequate or proper test thereoff:

Provided that where a defence is raised to the effect that such warranty or guarantee is based on adequate or proper test, the burden of proof of such defence shall lie on the person raising such defence;

(*viii*) makes to the public a representation in a form that purports to be—

(*i*) a warranty or guarantee of a product or of any goods or services; or

(*ii*) a promise to replace, maintain or repair an article or any part thereof or to repeat or continue a service until it has achieved a specified result,

if such purported warranty or guarantee or promise is materially misleading or if there is no reasonable prospect that such warranty, guarantee or promise will be carried out;

(*ix*) materially misleads the public concerning the price at which a product or like products or goods or services, have been or are, ordinarily sold or provided, and, for this purpose, a representation as to price shall be deemed to refer to the price at which the product or goods or services has or have been sold by sellers or provided by suppliers generaly in the relevant market unless it is clearly specified to be the price at which the product has been sold or services have been provided by the person by whom or on whose behalf the representation is made;

(*x*) gives false or misleading fact disparaging the goods, services or trade of another person.

Explanation.—For the purposes of clause (1), a statement that is—

(*a*) expressed on an article offered or displayed for sale, or on its wrepper or; container or

(*b*) expressed on anything attached to, inserted in, or accompanying an article offered or displayed for sale, or on anything on which the article is mounted for display or sale; or

(*c*) contained in or on anything that is sold, sent, delivered, transmitted or in any other manner whatsoever made available to a member of the public,

shall be deemed to be a statement made to the public by, and only by, the person who had caused the statement to be so expressed, made or contained;

(*2*) permits the publication of any advertisement whether in any newspaper or otherwise, for the sale or supply at a bargain price, of goods or services that are not intended to be offered for sale or supply at the bragain price, or for a period that is, and in quantities that are, reasonable, having regard to the nature of the market in which the business is carried on, the nature and size of business, and the nature of the advertisement.

Explanation.—For the purposes of clause (2), "bargaining price" means—

(*a*) a price that is stated in any advertisement to be a baregain price, by reference to an ordinary price or otherwise, or

(*b*) a price that a person who reads, hears or sees the avertisement, would reasonably understand to be a bargain price having regard to the prices at which the product advertised or like products are ordinarilly sold;

(*3*) permits—

(*a*) the offering of gifts, prizes or other items with the intention of not providing them as offered or creating impression that something is being given or offered free of charge when it is fully or partly covered by the amount charged in the transaction as a whole;

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(*b*) the conduct of any contest, lottery, game of chance or skill, for the purpose of promoting, directly or indirectly, the sale, use or supply of any product or any business interest;

(*4*) permits the sale or supply of goods intended to be used, or are of a kind likely to be used, by consumers, knowing or having reason to believe that the goods do not comply with the standards prescribed by competent authority relating to performance, composition, contents, design, constructions, finishing or packaging as are necessary to prevent or reduce the risk of injury to the person using the goods;

(*5*) permits the hoarding or destruction of goods, or refuses to sell the goods or to make them available for sale or to provide any service, if such hoarding or destruction or refusal raises or tends to raise or is intended to raise, the cost of those or other similar goods or services.'.

Amendment of section 4.

3. In section 4 of the principal Act in sub-section (*2*), in clause (*a*), for the words "the Department of Food and Civil Supplies", the words "consumer affairs" shall be substituted.

Amendment of section 5.

4. In section 5 of the principal Act, in sub-section (*1*), for the words "not less than three meetings", the words "at least one meeting" shall be substituted;

Amendment of section 6.

5. In section 6 of the principal Act,—

(*i*) in clause (*a*) after the word "goods", the words "and services" shall be inserted;

(*ii*) in clause (*b*), after the word "goods", the words "or services, as the case may be," shall be inserted;

(*iii*) in clause (*c*), after the word "goods", the words "and services" shall be inserted;

(*iv*) in clause (*e*) after the words "unfair trade practices", the words "or restrictive trade practices". shall be inserted.

Amendment of section 7.

6. In section 7 of the principal Act, for Sub-section (*2*), the following sub-sections shall be substituted, namely:—

"(*2*) the State Council shall consist of the following members, namely:—

(*a*) the Minister incharge of consumer affairs in the State Government who shall be its Chairman;

(*b*) such numer of other official or non-official members representing such interests as may be prescribed by the State Government.

(*3*) The State Council shall meet as and when necessary but not less than two meetings shall be held every year.

(*4*) The State council shall meet at such time and place as the Chairman may think fit and shall observe such procedure in regard to the transaction of its business as may be prescribed by the State Government.".

Amendment of section 9.

7. In section 9 of the principal Act,—

(*1*) in clause (*a*),—

(*i*) the words "with the prior approval of the Central Government" shall be omitted;

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(*ii*) the following proviso shall be insetred at the end, namely:—

"Provided that the State Government, may if it deems fit, establish more than one District Forum in a ditrict.";

(*2*) in cluase (*b*), the words "with the prior approval of the Central Government" shall be omitted.

Amendment of section 10.

8. In section 10 of the principal Act,—

(*1*) for sub-section (*1*), the following sub-section shall be substituted namely:—

"(*1*) Each District Forum shall consist of,—

(*a*) a person who is, or who has been or is qualified to be, a District Judge, who shall be its President;

(*b*) two other members, shall be persons of ability, integrity and standing, and have adequate knowledge or experience of, or have shown capacity in dealing with, problems relating to economics, law, commerce, accountancy, industry, public affairs or administration, one of whom shall be a woman.".

(*2*) after sub-section (*1*), the following sub-section shall be inserted, namely;-

"(1A) Every appointment under sub-section (*1*) shall be made by the State Government on the recommendation of a selection committee consisting of the following, namely:-

(*i*) the President of the State Commission-Chairman,

(*ii*) Secretary, Law Department of the State -Member,

(*iii*) Secretary incharge of the Department dealing with consumer affairs in the State-Member."

Amendment of section 11.

9. In section 11 of the principal Act,-

(1) in sub-section (*1*), for the words "is less than reupees one lakh", the words "does not exceed rupees five lakhs" shall be substituted.

(2) in sub-section (2), -

(*i*) in clause (*a*), for the words "carries on business or" the words "carries on business or has a branch office or" shall be substituted;

(*ii*) in clause (*b*),-

(*A*) for the words "carries on business" the words "carries on business or has a branch office" shall be substituted;

(*B*) for the words "carry on business" the words "carry on business o rhave a branch office" shall be substituted.

Substitution of new section for section 12.

10. For section 12 of the principal Act, the following section shall be substituted namely:-

Manner in which complaint shall be made.

'12. A complaint in relation to any goods sold or delivered or agreed to be sold or delivered or any service provided or agreed to be provided may be filed with a District Forum, by-

(*a*) the consumer to whom such goods are sold or delivered or agreed to be sold or delivered or such service provided or agreed to be provided;

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(*b*) any recognised consumer association whether the consumer to whom the goods sold or delivered or agreed to be sold or delivered or service provided or agreed to be provided is a member of such association or not;

(*c*) one or more consumers, where there are numerous consumers having the same interest, with the permission of the District Forum, on behalf of, or for the benefit of, all consumers so intereste;d or

(*d*) the Central or the State Government.

1 of 1956. *Explanation.*–For the purposes of this section, "recognised consumer association" means any voluntary consumer association registered under the Companies Act, 1956 or any law for the time being in force.

Amendment of section 13.

11. In section 13 of the principal Act, after sub-section (*5*), the following sub section shall be inserted, namely:–

5 of 1908. "(*6*) Where the complainant is a consumer referred to in sub-clause (*iv*) of clause (*b*) of sub-section (*1*) of section 2, the provisions of rule 8 of Order I of the First Schedule to the Code of Civil Procedure, 1908 shall apply subject to the modification that every reference therein to a suit or decree shall be construed as a reference therein to a suit or decree shall be construed as a reference to a complaint or the order of the District Forum thereon."

Amendment of section 14.

12. In section **14** of the principal Act, in sub-section (1)–

(*i*) in the opening portion, for the word "take", the word "do" shall be substituted;

(*ii*) after clause (*d*), the following clause shall be inserted, namely:–

"(*e*) to remove the defects or deficiencies in the services in question;

(*f*) to discontinue the unfair trade practice or the restrictive trade practice or not to repeat them.

(*g*) not to offer the hazardous goods for sale;

(*h*) to withdraw the hazardous goods from being offered for sale:

(*i*) to provide for adequate costs to parties.".

Amendment of section 16.

13. In section 16 of the principal Act, in sub-section (*1*)–

(*i*) in clause (*a*), the following proviso shall be inserted at the end, namely:–

"Provided that no appointment under this clause shall be made except after consultation with the Chief Justice of the High Court;";

(*ii*) after clause (*b*), for the proviso, the following proviso shall be substituted, namely:–

"Provided that every appointment made under this clause shall be made by the State Government on the recommendation of a selection committee consisting of the following, namely:–

(*i*) President of the State Commission —Chairman.

(*ii*) Secretary of the Law Department of the State —Member,

(*iii*) Secretary, incharg of Department dealing with consumer affairs in the State —Members.";

(*iii*) in sub-section (*2*), the brackets and words "(including tenure of office)" shall be a omitted;

(*iv*) after sub-section (*2*), the following sub-section shall be inserted, namely:—

"(*3*) Every member of the State Commission shall hold Office for a term of five years or up to the age of sixty-seven years, whichever is earlier and shall not be eligible for re-appointment.

(*4*) Notwithstanding anything contained in sub-section (*3*), a person appointed as President or a member before the commencement of the Consumer Protection (Amendment) Ordinance, 1993, shall continue to hold such office as President or member' as the cae may be, till the completion of his term.".

Amendment of section 17.

14. In section 17 of the principal Act, in clause (*a*), in sub-section (*i*), for the words "one lakh but does not exceed rupees ten lakhs", the words "five lakhs but does not exceed rupees twenty lakhs" shall be substituted.

Amendment of section 18.

15. In section 18 of the principal Act, for the words and figures "The procedure specified in sections 12, 13 and 14 and under the rules made thereunder", the words and figures "The provisions of section 12, 13 and 14 and the rules made thereunder" shall be substituted.

Amendment of section 20.

16. In section 20 of the principal Act,—

(*i*) in sub-section (*1*),—

(*A*) in clause (*a*), the following proviso shall be inserted at the end, namely:—

"Provided that no appointment under this clause shall be made excepot after consultation with the Chief Justice of India;"

(*B*) after clause (*b*), for the proviso, the following proviso shall be subsituted namely:—

"Provided that every appointment under this clause shall be made by the Central Government on the recommendation of a selection committee consisting of the following namely:—

(*a*) a pereson who is a Judge of the Supreme Court, to be nominated by the Chief Justice of India. —Chairman.

(*b*) the Secretary in the Department of Legal Affairs in the Government of India. — Member

(*c*) Secratry of the Department dealing with consumer affairs, in the Government of India. —Member.";

(*ii*) in sub-section (*2*), the brackets and words "(including tenure of office)" shall be omitted;

(*iii*) atfer sub-section (*2*), the following sub-section shall be inserted, namely:—

"(*3*) Every member of the Nctional Commission shall hold office for a term of five years or up to the age of seventy years whichever is earlier and shall not be eligible for re-appointment.

(*4*) Notwithstanding anything contained in sub-section (*3*), a person appointed as a President or a member before the commencement of the Consumare Protection (Amendment) Ordinance, 1993 shall continue to hold such office as President or member, as the case may be, till the completion of his term.".

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Amendment of section 21.

17. In section 21 of the principal Act, in clause (*a*), in sub-clause (*i*), for the words "ten lakhs", the words "twenty lakhs" shall be substituted.

Substitution of new section for section 22.

18. For section 22 of the principal Act, the following section shall be substituted, namely:—

Power of and procedure applicable to the National Commission.

"**22.** The National Commission shall, in the disposal of any complaints or any proceedings before, it, have—

(*a*) the powers of a civil court as specified in sub-section (*4*), (*5*) and (*6*) of section 13;

(*b*) the power to issue an order to the opposite party directing him to do any one or more of the things referred to in clause (*a*) to (*i*) of sub-section (*1*) of section 14 ;

and follow such procedure as may be prescribed by the Central Government.".

Insertion of new sections 24A and 24B.

19. After section 24 of the principal Act, the following sections shall be inserted, namely:—

Limitation period.

"24A. (*1*) The District Forum, the State Commission or the National Commission shall not admit a compalint unless it is filed within one year from the date on which the cause of action has arisen.

(*2*) Notwithstanding anything contained in sub-section (*1*), a complaint may be entertained after the period specified in sub-setion (*1*), it the compalint satisfies the District Forum, the State Commissioner or the National Commission, as the case may be, that he had sufficient cause for not filing the complaint within such period:

Provided that no such complaint shall be entertained unless the District Forum, the State Commission or the National Commission, as the case may be, records its reasons for condoning such delay.

Administrative control.

24B. (*1*) The National Commissioned shall have administrative control over all the State Commissions in the following matters, namely:—

(*i*) calling for periodical returns regarding the institution, disposal, pendency of cases;

(*ii*) issuance of instructions regarding adoption of uniform procedure in the hearing of matters, prior service of copies of documents produced by one party to the opposite parties, furnishing of English translation of judgements written in any language, speedy grant of copies of documents;

(*iii*) generally overseeing the functioning of the State Commissions or the District Fora to ensure that the objects and purposes of the Act are best served without in any way interfering with their quasi-judicial freedom.

(*2*) The State Commission shall have administrative control over all the District Fora within its jurisdiction in all matters referred to in sub-section (*1*).".

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Substitution of new section for section 26.

20. For section 26 of the principal Act, the following section shall be substituted, namely:—

Dismissal of frivolous or vexatious complaints.

"26. Where a complaint instituted before the District Forum, the State Commission or the National Commission, as the case may be, is found to be frivolous or vexatious, it shall, for reasons to be recorded in writing, dismiss the complaint and make and order that the complainant shall pay to the opposite party such cost, not exceeding ten thousand rupees, as may be specified in the order.".

Amendment of section 27

21. In section 27 of the principal Act,—

(*a*) after the words "against whom a complaint is made", the words "or the complainant" shall be inserted;

(*b*) after the words "such trader or person", the words "or complainant" shall be inserted.

Amendment of section 30.

22. In section 30 of the principal Act,—

(*a*) in sub-section (*1*), after the words "the provisions contained in", the words, brackets, letter and figures "clause (a) of sub-section (*1*) of section 2" shall be inserted;

(*b*) in sub-section (*2*), after the words "the provisions contained in", the words, brackets, letter and figures "clasue (b) of sub-section (*2*) and sub-section (*4*) of section 7" shall be inserted.

SHANKER DAYAL SHARMA,
President.

A. C. C. UNNI,
Additional Secretary to the Govt. of India.

By order and in the name of the Governor of Gujarat,

B. K. SHAH,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, 30th July, 1993.

No. RP/72/93/Ord. 25/93/Research.—The following Ordinance promulgated by the President and published in the Gazette of India, Extra-Ordinary, Part-II, Section 1, dated the 24th June, 1993 is republished for general information :—

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 24th June, 1993/Asadha 3, 1915 (Saka)

THE RECOVERY OF DEBTS DUE TO BANKS AND FINANCIAL INSTITUTIONS ORDINANCE, 1993

No. 25 of 1993

Promulgated by the President in the Forty-fourth year of the Republic of India.

An Ordinance to provide for the establishment of Tribunals for expeditious Adjudication and recovery of debts due to banks and financial institutions and for matters connected therewith or incidental thereto.

WHEREAS, the Recovery of Debts Due to banks and Financial Institutions Bill, 1993 has been introduced in the House of the People and is pending in that House:

AND, WHEREAS, Parliament is not in session and the President is satisfied that the circumstances exist which render it necessary for him to take immediate action to give effect to the provisions of the Bill;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

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CHAPTER I

PRELIMINARY

Short title, extent, commencement and application.

1. (*1*) This Ordinance may be called the Recovery of Debts Due to Banks and Financial Institutions Ordinance, 1993.

(*2*) It extends to the whole of India except the State of Jammu and Kashmir.

(*3*) It shall come into force at once.

(*4*) The provisions of this Ordinance shall not apply where the amount of debt due to any bank or financial institution or to a consortium of banks or financial institutions is less than ten lakh rupees or such other amount, being not less than one lakh rupees, as the Central Government may, by notification, specify.

Definition.

2. In this Ordinance, unless the context otherwise requires,—

(*a*) "Appelate Tribunal" means an Appellate Tribunal established under sub-section (*1*) of section 8;

(*b*) "application" means an application made to a Tribunal under section 19;

(*c*) "appointed day", in relation to a Tribunal or an Appellate Tribunal, means the date on which such Tribunal is established under sub-section (*1*) of section 3 or, as the case may be, sub-section (*1*) of section 8;

(*d*) "bank" means—

- (*i*) a banking company;
- (*ii*) a corresponding new bank;
- (*iii*) State Bank of India;
- (*iv*) a subsidiary bank; or
- (*v*) a Regional Rural Bank;

(*e*) "banking company" shall have the meaning assigned to it in clause (*c*) of section 5 of the Banking Regulation Act, 1949; 10 of 19

(*f*) "corresponding new bank" shall have the meaning assigned to it in clause (da) of section 5 of the Banking Regulation Act, 1949; 10 of 19

(*g*) "debt" means any liability (inclusive of interest) which is alleged as due from any person by a bank or a financial institution or by a consortium of banks or financial institutions during the course of any business activity undertaken by the bank or the financial institution or the consortium under any law for the time being in force, in cash or otherwise, whether secured or unsecured, or whether payable under a decree or order of any civil court or otherwise and subsisting on, and legally recoverable on, the date of the application;

(*h*) "financial institution" means—

(*i*) a public financial institution within the meaning of section 4A of the Companies Act, 1956; 1 of 195

(*ii*) such other institution as the Central Government may, having regard to its business activity and the area of its operation in India, by notification, specify;

(*i*) "notification" means a notification published in the Official Gazette;

(*j*) "prescribed" means prescribed by rules made under this Ordinance;

(*k*) "Recovery Officer" means a Recovery Officer appointed by the Central Government for each Tribunal under sub-section (*1*) of section 7;

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21 of 1976. (*l*) "Regional Rural Bank" means a Regional Rural Bank established under section 3 of the Regional Rural Banks Act, 1976;

23 of 1955. (*m*) "State Bank of India" means the State Bank of India constituted under section 3 of the State Bank of India Act, 1955;

38 of 1959. (*n*) "subsidiary bank" shall have the meaning assigned to it in clause (*k*) of section 2 of the State Bank of India (Subsidiary Banks) Act, 1959;

(*o*) "Tribunal" means the Tribunal established under sub-section (*1*) of section 3.

CHAPTER II

ESTABLISHMENT OF TRIBUNAL AND APPELLATE TRIBUNAL

Establishment of Tribunal.

3. (*1*) The Central Government shall, by notification, establish one or more Tribunals, to be known as the Debts Recovery Tribunal, to exercise the jurisdiction, powers and authority conferred on such Tribunal by or under this Ordinance.

(*2*) The Central Government shall also specify, in the notification referred to in sub-section (*1*), the areas within which the Tribunal may exercise jurisdiction for entertaining and deciding the applications filed before it.

Composition of Tribunal.

4. (*1*) A Tribunal shall consist of one person only (hereinafter referred to as the Presiding Officer) to be appointed, by notification, by the Central Government.

(*2*) Notwithstanding anything contained in sub-section (*1*), the Central Government may authorise the Presiding Officer of one Tribunal to discharge also the functions of the Presiding Officer of another Tribunal.

Qualifications for appointment as Presiding Officer.

5. A person shall not be qualified for appointment as the Presiding Officer of a Tribunal unless he is, or has been, or is qualified to be, a District Judge.

Term of Office.

6. The Presiding Officer of a Tribunal shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of sixty years, whichever is earlier.

Staff of Tribunal.

7. (*1*) The Central Government shall provide the Tribunal with a Recovery Officer and such other officers and employees as that Government may think fit.

(*2*) The Recovery Officer and other officers and employees of a Tribunal shall discharge their functions under the general superintendence of the Presiding Officer.

(*3*) The salaries and allowances and other conditions of service of the Recovery Officer and other officers and employees of a Tribunal shall be such as may be prescribed.

Establishment of Appellate Tribunal.

8. (*1*) The Central Government shall, by notification, establish one or more Appellate Tribunals, to be known as the Debts Recovery Appellate Tribunal, to exercise the jurisdiction, powers and authority conferred on such Tribunal by or under this Ordinance.

(*2*) The Central Government shall also specify in the notification, referred to in sub-section (*1*), the Tribunal in relation to which the Appellate Tribunal may exercise jurisdiction.

Provided that nothing in this sub-section shall apply to any part of the amount exempt from attachment in execution of a decree of a civil court under section 60 of the Code of 5 of 1908. Civil Procedure, 1908.

(3) (i) The Recovery Officer may, at any time or from time to time, by notice in writing, require any person from whom money is due or may become due to the defendant or to any person who holds or may subsequently hold money for or on account of the defendant, to pay to the Recovery Officer either forthwith upon the money becoming due or being held or within the time specified in the notice (not being before the money becomes due or is held) so much of the money as is sufficient to pay the amount of debt due from the defendant or the whole of the money when it is equal to or less than that amount.

(ii) A notice under this sub-section may be issued to any person who holds or may subsequently hold any money for or on account of the defendant jointly with any other person and for the purposes of this sub-section, the shares of the joint holders in such amount shall be presumed, until the contrary is proved to be equal.

(iii) A copy of the notice shall be forwarded to the defendant at his last address known to the Recovery Officer and in the case of a joint account to all the joint holders at their last addresses known to the Recovery Officer.

(iv) Save as otherwise provided in this sub-section, every person to whom a notice is issued under this sub-section shall be bound to comply with such notice, and, in particular, where any such notice is issued to a post office, bank, financial institution, or an insurer, it shall not be necessary for any pass book, deposit receipt, policy or any other document to be produced for the purpose of any entry, endorsement or the like to be made before the payment is made notwithstanding any rule, practice or requirement to the contrary.

(v) Any claim respecting any property in relation to which a notice under this sub-section has been issued arising after the date of the notice shall be void as against any demand contained in the notice.

(vi) Where a person to whom a notice under this sub-section is sent objects to it by a statement on oath that the sum demanded or the part thereof, is not due to the defendant or that he does not hold any money for or on account of the defendant, then, nothing contained in this sub-section shall be deemed to require such person to pay any such sum or part thereof, as the case may be, but if it is discovered that such statement was false in any material particular, such person shall be personally liable to the Recovery Officer to the extent of his own liability to the defendant on the date of the notice, or to the extent of the defendant's liability for any sum due under this Ordinance, whichever is less.

(vii) The Recovery Officer may, at any time or from time to time, amend or revoke any notice under this sub-section or extend the time for making any payment in pursuance of suh notice.

(viii) The Recovery Officer shall grant a receipt for any amount paid in compliance with a notice issued under this sub-section, and the person so paying shall be fully discharged from his liability to the defendant to the extent of the amount so paid.

(ix) Any person discharging any liability to the defendant after the receipt of a notice under this sub-section shall be personally liable to the Recovery Officer to the extent of his own liability to the defendant so discharged or to the extent of the defendant's liability for any debt due under this Ordinance, whichever is less.

(x) If the person to whom a notice under this sub-section is sent fails to make payment in pursuance thereof to the Recovery Officer, he shall be deemed to be a defendant in default in respect of the amount specified in the notice and further proceedings may be taken against him for the realisation of the amount as if it were a debt due from him, in the manner provided in sections 25, 26 and 27 and the notice shall have the same effect as an attachment of a debt by the Recovey Officer in exercise of his powers under section 25.

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Composition of Appellate Tribunal.

9. An Appellate Tribunal shall consist of one person only (hereinafter referred to as the Presiding Officer of the Appellate Tribunal) to be appointed, by notification, by the Central Government.

Qualifications for appointment as Presiding Officer of the Appellate Tribunal.

10. A person shall not be qualified for appointment as the Presiding Officer of an Appellate Tribunal unless he—

(*a*) is, or has been, or is qualified to be, a Judge of a High Court;

(*b*) has been a member of the Indian Legal Service and has held a post in Grade I of that Service for at least three years;

(*c*) has held office as the Presiding Officer of a Tribunal for at least three years.

Term of Office.

11. The Presiding Officer of an Appellate Tribunal shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of sixty-two years, whichever is earlier.

Staff of the Appellate Tribunal.

12. The provisions of section 7 (except those relating to Recovery Officer) shall, so far as may be, apply to an Appellate Tribunal as they apply to a Tribunal and accordingly references in that section to "Tribunal" shall be construed as references to "Appellate Tribunal" and references to "Recovery Officer" shall be deemed to have been omitted.

Salary and allowances and other terms and conditions of service of Presiding Officers.

13. The salary and allowances payable to, and the other terms and conditions of service (including pension, gratuity and other retirement benefits) of the Presiding Officer of a Tribunal or an Appellate Tribunal shall be such as may be prescribed:

Provided that neither the salary and allowances nor the other terms and conditions of service of the said Presiding Officers shall be varied to their disadvantage after appointment.

Filling up of vacancies.

14. If, for any reason other than temporary absence, any vacancy occurs in the office of the Presiding Officer of a Tribunal or an Appellate Tribunal, then the Central Government shall appoint another person in accordance with the provisions of this Ordinance to fill the vacancy and the proceedings may be continued before the Tribunal or the Appellate Tribunal from the stage at which the vacancy is filled.

Resignation and removal.

15. (*1*) The Presiding Officer of a Tribunal or an Appellate Tribunal may, by notice in writing under his hand addressed to the Central Government, resign his office:

Provided that the said Presiding Officer shall, unless he is permitted by the Central Government to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

(*2*) The Presiding Officer of a Tribunal or an Appellate Tribunal shall not be removed from his office except by an order made by the Central Government on the ground of proved misbehaviour or incapacity after inquiry,—

(*a*) in the case of the Presiding Officer of a Tribunal, made by a Judge of a High Court;

(*b*) in the case of the Presiding Officer of an Appellate Tribunal, made by a Judge of Supreme Court,

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in which the Presiding Officer concerned has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

(*3*) The Central Government may, by rules, regulate the procedure for the investigation of misbehaviour or incapacity of the aforesaid Presiding Officer.

Orders constituting Tribunal or an Appellate Tribunal to be final and not to invalidate its proceedings.

16. No order of the Central Government appointing any person as the Presiding Officer of a Tribunal or an Appellate Tribunal shall be called in question in any manner, and no act or proceeding before a Tribunal or an Appellate Tribunal shall be called in question in any manner on the ground merely of any defect in the constitution of a Tribunal or an Appellate Tribunal.

CHAPTER III

JURISDICTION, POWERS AND AUTHORITY OF TRIBUNALS

Jurisdiction, powers and authority of Tribunals.

17. (*1*) A Tribunal shall exercise, on and from the appointed day, the jurisdiction, powers and authority to entertain and decide applications from the banks and financial institutions for recovery of debts due to such banks and financial institutions.

(*2*) An Appellate Tribunal shall exercise, on and from the appointed day, the jurisdiction, powers and authority to entertain appeals against any order made, or deemed to have been made, by a Tribunal under this Ordinance.

Bar of jurisdiction.

18. On and from the appointed day, no court or other authority shall have, or be entitled to exercise, any jurisdiction, powers or authority (except the Supreme Court, and a High Court exercising jurisdiction under articles 226 and 227 of the Constitution) in relation to the matters specified in section 17.

CHAPTER IV

PROCEDURE OF TRIBUNALS

Application to the Tribunal.

19. (*1*) Where a bank or a financial institution has to recover any debt from any person, it may make an application to the Tribunal within the local limits of whose jurisdiction—

(*a*) the defendant, or each of the defendants where there are more than one, at the time of making application, actually and voluntarily resides, or carries on business, or personally works for gain; or

(*b*) any of defendants, where there are more than one, at the time of making the application, actually and voluntarily resides, or carries on business, or personally works for gain; or

(*c*) the cause of action, wholly or in part, arises.

(*2*) Every application under sub-section (*1*) shall be in such form and be accompanied by such documents or other evidence and by such fee for filing the application as may be prescribed:

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Provided that the fee may be prescribed having regard to the amount of debt to be recovered:

Provided further that nothing contained in this sub-section relating to fee shall apply to cases transferred to the Tribunal under sub-section (*1*) of section 31.

(*3*) On receipt of the application under sub-section (*1*), the Tribunal shall issue summons requiring the defendant to show cause within thirty days of the service of summons as to why the relief prayed for should not be granted.

(*4*) The Tribunal may, after giving the applicant and the defendant an opportunity of being heard, pass such orders on the application as it thinks fit to meet the ends of justice.

(*5*) The Tribunal shall send a copy of every order passed by it to the applicant and the defendant.

(*6*) The Tribunal may make an interim order (whether by way of injunction or stay) against the defendant to debar him from transferring, allienating or otherwise dealing with, or disposing of, any property and assets belonging to him without the prior permission of the Tribunal.

(*7*) The Presiding Officer shall issue a certificate under his signatures on the basis of the order of the Tribunal, to the Recovery Officer for recovery of the amount of debt specified in the certificate.

(*8*) The application made to the Tribunal under sub-section (*1*) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the application finally within six months from the date of receipt of application.

Appeal to the Appellate Tribunal.

20. (*1*) Save as otherwise provided in sub-section (*2*), any person aggrieved by an order made, or deemed to have been made, by a Tribunal under this Ordinance, may prefer an appeal to an Appellate Tribunal having jurisdiction in the matter.

(*2*) No appeal shall lie to the Appellate Tribunal from an order made by a Tribunal with the consent of the parties.

(*3*) Every appeal under sub-section (*1*) shall be filed within a period of forty-five days from the date on which a copy of the order made, or deemed to have been made, by the Tribunal is received by him and it shall be in such form and be accompanied by such fee as may be prescribed:

Provided that the Appellate Tribunal may entertain an appeal after the expiry of the said period of forty-five days if it is satisfied that there was sufficient cause for not filing it within that period.

(*4*). On receipt of an appeal under sub-section (*1*), the Appellate Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modyfying or setting aside the order appealed against.

(*5*) The Appellate Tribunal shall send a copy of every order made by it to the parties to the appeal and to the concerned Tribunal.

(*6*) The appeal filed before the Appellate Tribunal under sub-section (*1*) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of receipt of the appeal.

Deposit of amount of debt due, on filing appeal.

21. Where an appeal is preferred by any person from whom the amount of debt is due to a bank or a financial institution or a consortium of banks or financial institutions, such appeal shall not be entertained by the Appellate Tribunal unless such person has deposited with the Appellate Tribunal seventy-five percent of the amount of debt so due from him as determined by the Tribunal under section 19:

Provided hat the Appellate Tribunal may, for reason to be recorded in writing, waive or reduce the amount to be deposited under this section.

Procedure and Powers of the Tribunal and the Appellate Tribunal.

22. (*1*) The Tribunal and the Appellate Tribunal shall not be bound by the procedure of 1908. laid down by the Code of Civil Procedure, 1908, but shall be guided by the principles of natural justice and, subject to the other provisions of this Ordinance and of any rules, the Tribunal and the Appellate Tribunal shall have powers to regulate their own procedure including the places at which they shall have their sittings.

(*2*) The Tribunal and the Appellate Tribunal shall have, for the purpose of discharging their functions under this Ordinance, the same powers as are vested in a civil court of 1908. under the Code of Civil Procedure, 1908, while trying a suit in respect of the following matters, namely:—

(*a*) summoning and enforcing the attendance of any person and examining him on oath;

(*b*) requiring the discovery and production of documents;

(*c*) receiving evidence on affidavits;

(*d*) issuing commissions for the examination of witnesses or documents;

(*e*) reviewing its decisions;

(*f*) dismissing an application for default or deciding it *ex-parte;*

(*g*) setting aside any order of dismissal of any application for default or any order passed by it *ex-parte;*

(*h*) any other matter which may be prescribed.

(*3*) Any proceeding before the Tribunal or the Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of 60. of section 196, of the Indian Penal Code and the Tribunal or the Appellate Tribunal shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the of 1974. Code of Criminal Procedure, 1973.

Right to legal representation and Presenting Officers.

23. (*1*) A bank or a financial institution making an application to a Tribunal or an appeal to an Appellate Tribunal may authorise one or more legal practitioners or any of its officers to act as Presenting Officers and every person so authorised by it may present its case before the Tribunal or the Appellate Tribunal.

(*2*) The defendant may either appear in person or authorise one or more legal practitioners or any of his or its officers to present his or its case before the Tribunal or the Appellate Tribunal.

Limitation.

24. The provisions of the Limitation Act, 1963 shall, as far as may be, apply to an of 1963. application made to a Tribunal.

CHAPTER V

RECOVERY OF DEBT DETERMINED BY TRIBUNAL

Modes of recovery of debts.

25. The Recovery Officer shall, on receipt of the copy of the certificate under sub-section (*7*) of section 19, proceed to recover the amount of debt specified in the certificate by one or more of the following modes, namely:—

(*a*) attachment and sale of the movable or immovable property of the defendant;

(*b*) arrest of the defendant and his detention in prison;

(*c*) appointing a receiver for the management of the movable or immovable properties of the defendant.

Validity of certificate and amendment thereof

26. (*1*) It shall not be open to the defendant to dispute before the Recovery Officer the correctness of the amount specified in the certificate, and no objection to the certificate on any other ground shall also be entertained by the Recovery Officer.

(*2*) Notwithstanding the issue of a certificate to a Recovery Officer, the Presiding Officer shall have power to withdraw the certificate or correct any clerical or arithmetical mistake in the certificate by sending an intimation to the Recovery Officer.

(*3*) The Presiding Officer shall intimate to the Recovery Officer any order withdrawing or cancelling a certificate or any correction made by him under sub-section (*2*).

Stay of Proceedings under certificate and amendment or withdrawal there of.

27. (*1*) Notwithstanding that a certificate has been issued to the Recovery Officer for the recovery of any amount, the Presiding Officer may grant time for the payment of the amount, and thereupon the Recovery Officer shall stay the proceedings until the expiry of the time so granted.

(*2*) Where a certificate for the recovery of amount has been issued, the Presiding Officer shall keep the Recovery Officer informed of any amount paid or time granted for payment, subsequent to the issue of such certificate to the Recovery Officer.

(*3*) Where the order giving rise to a demand of amount for recovery of debt has been modified in appeal, and as a consequence thereof the demand is reduced, the Presiding Officer shall stay the recovery of such part of the amount of the certificate as pertains to the said reduction for the period for which the appeal remains pending.

(*4*) Where a certificate for the recovery of debt has been received by the Recovery Officer and subsequently the amount of the outstanding demands is reduced as a result of an appeal, the Presiding Officer shall, when the order which was the subject-matter of such appeal has become final and conclusive, amend the certificate or withdraw it, as the case may be.

Other modes of recovery.

28. (*1*) Where a certificate has been issued to the Recovery Officer under sub-section (*7*) of section 19, the Recovery Officer may, without prejudice, to the modes of recovery specified in section 25, recover the amount of debt by any one or more of the modes provided under this section.

(*2*) If any amount is due from any person to the defendant, the Recovery Officer may require such person to deduct from the said amount, the amount of such person shall comply with any such requisition and shall pay the sum so deducted to the credit of the Recovery Officer:

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(4) The Recovery Officer may apply to the court in whose custody there is money belonging to the defendant for payment to him of the entire amount of such money, or if it is more than the amount of debt due, an amount sufficient to discharge the amount of debt so due.

(5) The Recovery Officer may recover any amount of debt due from the defendant by distraint and sale of his movable property in the manner laid down in the Third Schedule to the Income-tax Act, 1961. 43 of 1961.

Application of certain provisions of Income-tax Act.

29. The provisions of the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962, as in force from time to time shall, as far as possible, apply with necessary modifications as if the said provisions and the rules referred to the amount of debt due under this Ordinance instead of to the Income-tax: 43 of 1961.

Provided that any reference under the said provisions and the rules to the "assessee" shall be construed as a reference to the defendant under this Ordinance.

Orders of Recovery Officer to be deemed as orders of Tribunal

30. Notwithstanding anything contained in section 29, an order made by the Recovery Officer in exercise of his powers under section 25 to 28 (both inclusive), shall be deemed to have been made by the Tribunal and an appeal against such order shall lie to the Appellate Tribunal.

CHAPTER VI

MISCELLANEOUS

Transfer of pending cases.

31. (*1*) Every suit or other proceeding pending before any court immediately before the date of establishment of a Tribunal under this Ordinance, being a suit or proceeding the cause of action whereon it is based is such that it would have been, if it had arisen after such establishment, within the jurisdiction of such Tribunal, shall stand transferred on that date to such Tribunal:

Provided that nothing in this sub-section shall apply to any appeal pending as aforesaid before any court.

(*2*) Where any suit or other proceeding stands transferred from any court to a Tribunal under sub-section (*1*),—

(*a*) the court shall, as soon as may be after such transfer, forward the records of such suit or other proceeding to the Tribunal; and

(*b*) the Tribunal may, on receipt of such records, proceed to deal with such suit or other proceeding, so far as may be, in the same manner as in the case of an application made under section 19 from the stage which was reached before such transfer or from any earlier stage or *de-novo* as the Tribunal may deem fit.

Members and staff of Tribunals to be public servants.

32. The Presiding Officer, the Recovery Officer and other officers and employees of a Tribunal and an Appellate Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. 45 of 1860.

Protection of action taken in good faith.

33. No suit, prosecution or other legal proceeding shall lie against the Central Government or against the Presiding Officer of a Tribunal or an Appellate Tribunal or against the Recovery Officer for anything which is in good faith done or intended to be done in pursuance of this Ordinance or any rule or order made thereunder.

Ordinance to have overriding effect.

34. (*1*) Save as otherwise provided in sub-section (*2*), the provisions of this Ordinance shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Ordinance.

15 of 1948.
63 of 1951.
52 of 1963.
62 of 1984.
1 of 1986.

(*2*) The provisions of this Ordinance or the rules made thereunder shall be in addition, to, and not in derogation of, the Industrial Finance Corporation Act, 1948, the State Financial Corporations Act, 1951, the Unit Trust of India Act, 1963, the Industrial Reconstruction Bank of India Act, 1984 and the Sick Industrial Companies (Special Provisions) Act, 1985.

Power to remove difficulties.

35. (*1*) If any difficulty arisen in giving effect to the provisions of this Ordinance, the Central Government may, by order published in the *Official Gazette*, make such provisions, not inconsistent with the provisions of this Ordinance, as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of the period of three years from the date of commencement of this Ordinance.

(*2*) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

Power to make rules.

36. (*1*) The Central Government may, by notification, make rules to carry out the provisions of this Ordinance

(*2*) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the salaries and allowances and other terms and conditions of service of the Presiding Officers, Recovery Officers and other officers and employees of the Tribunal and the Appellate Tribunal under sections 7, 12 and 13;

(*b*) the procedure for the investigation of misbehaviour or incapacity of the Presiding Officers of the Tribunals and Appellate Tribunals under sub-section (*3*) of section 15;

(*c*) the form in which an application may be made under section 19, the documents and other evidence by which such application shall be accompained and the fees payable in respect of the filing of such application;

(*d*) the form in which an appeal may be filed before the Appellate Tribunal under section 20 and the fees payable in respect of such appeal;

(*e*) any other matter which is required to be, or may be, prescribed.

(*3*) Every rule made by the Central Government under this Ordinance shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

SHANKER DAYAL SHARMA,
President.

A. C. C. UNNI,
Additional Secretary to the Govt. of India.

By order and in the name of the Governor of Gujarat,

B. K. SHAH,
Secretary to Government.

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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, 30th July, 1993.

No. RP/73/93/Ord. 26/93/Research.—The following Ordinance promulgated by the President and published in the Gazette of India, Extra-ordinary, Part-II, Section 1, dated the 25th June, 1993 is republished for general information:—

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 25th June, 1993/Asadha 4, 1915(Saka)

THE CONSERVATION OF FOREIGN EXCHANGE AND PREVENTION OF SMUGGLING ACTIVITIES (AMENDMENT) ORDINANCE, 1993

No. 26 OF 1993

Promulgated by the President in the Forty-fourth year of the Republic of India

An Ordinance further to amend the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, THEREFORE, in exercise of the powers conferred by clause (*1*) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

INDEX

Short title and commencement.

1. (*1*) This Ordinance may be called the Conservation of Foreign Exchange and Prevention of Smuggling Activities (Amendment) Ordinance, 1993.

(*2*) It shall come into force at once.

Amendment of section 9 of Act 52 of 1974.

2. In the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974, in section 9, in sub-section (*1*), for the figures, letters and words "31st day of July, 1993", the figures, letters and words "31st day of July, 1996" shall be substituted.

SHANKER DAYAL SHARMA,
President.

A. C. C. UNNI,
Additional Secretary to the
Govt. of India.

By order and in the name of the Governor of Gujarat,

B. K. SHAH,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, 6th September, 1993.

No. RP/76/92/27/93/Research.—The following Ordinance promulgated by the President and published in the Gazette of India, Extra-Ordinary Part-II, Section 1 dated the 30th June, 1993 is republished for general information :—

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 30th June, 1993/Asadha 9, 1915 (Saka)

THE PREVENTION OF ILLICIT TRAFFIC IN NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES (AMENDMENT) ORDINANCE, 1993.

No. 27 of 1993.

Promulgadted by the President in the Forty-fourth Year of the Republic of India.

An Ordinance further to amend the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action ;

NOW, THEREFORE, in exercise of the Powers conferred by clause (*1*) of article 123 of the Constitution, the President is Pleased to promulgate the following Ordinance:—

Short title and commencement.

1. (*1*) This Ordinance may be called the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Amendment) Ordinance, 1993.

(*2*) It shall come into force at once.

Amendment of section 10 of Act 46 of 1988.

2. In the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988 in section 10, in sub-section (*1*), for the figures, letters and words "31st day of July, 1993", the figures, letters and words "31st day of July, 1996" shall be substituted.

SHANKER DAYAL SHARMA,
President.

K. L. MOHANPURIA,
Secy. to the Govt. of India.

By order and in the name of the Governor of Gujarat,

B. K. SHAH,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, 6th September, 1993.

No. RP/79/93/4/93-Research:—The following Act of Parliament is re-published for general information :

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi the 30th March, 1993/Chaitra 9, 1914 (Saka)

The following Act of Parliament received the assent of the President on the 30th March, 1993 and is hereby published for general information :

THE OILFIELDS (REGULATION AND DEVELOPMENT) AMENDMENT ACT, 1993.

[Act No. 4 of 1993]

[30th March, 1993]

AN ACT

Further to amend the Oilfields (Regulation and Development) Act, 1948.

Be it enacted by Parliament in the Forty-fourth Year of the Republic of India as follows :—

INDEX

Short title and commencement.

1. (*1*) This Act may be called the Oilfields (Regulation and Development) Amendment Act, 1993.

(*2*) It shall be deemed to have come into force on the 30th day, of January, 1993.

Amendment of section 6A of Act 53 of 1948.

2. In section 6A of the Oilfields (Regulation and Development) Act, 1948, after sub-section, (*4*), the following sub-section shall be inserted, namely:—

"(*5*) Notwithstanding anything contained in sub-section (*4*), the Central Government may, by notification in the *Official Gazette*, amend the Schedule so as to enhance the rate of royalty payable in respect of mineral oil, produced during the period beginning on the 1st day of April, 1990 and ending on the 31st day of March, 1993, to 24.52 per cent of the sale price of mineral oil at the Oilfields or the Oil well-head, as the case may be.".

Repeal and saving.

3. (*1*) The Oilfields (Regulation and Development) Amendment Ordinance, 1993 is hereby repealed. Ord. 19 of 1993.

(*2*) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

SHRI K. L. MOHANPURIA,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

B. K. SHAH,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, 6th September, 1993.

No. RP/78/93/ord. 29/93/Research/ .–The following Ordinance promulgated by the President and published in the Gazette of India, Extra-ordinary, Part-II, Section 1, dated the 19th July, 1993 is republished for general information.

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 19th July, 1993/Asadha 28, 1915 (*Saka*)

THE PARLIAMENT (PREVENTION OF DISQUALIFICATION) AMENDMENT ORDINANCE, 1993.

No. 29 of 1993.

An Ordinance further to amend the Parliament (Prevention of Disqualification) Act, 1959.

Promulgated by the President in the Forty-Fourth Year of the Republic of India

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WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:–

Short title and commencement.

1. (*1*) This Ordinance may be called the Parliament (Prevention of Disqualification) Amendment Ordinance, 1993.

(*2*) It shall come into force at once.

Amendment of section 3.

2. In section 3 of the Parliament (Prevention of Disqualification) Act, 1959 (hereinafter referred to as the principal Act),— 10 of 1959

(*a*) after clause (*aa*), the following clause shall be inserted, namely:—

"(*ab*) the office of Deputy Chairman, Planning Commission;";

(*b*) for clause (*i*), the following clause shall be substituted, namely:—

"(*i*) the office of chairman, director or member of any statutory or non-statutory body other than any such body as is referred to in clause (*h*) if the holder of such office is not entitled to any remuneration other than compensatory allowance, but excluding (*i*) the office of chairman of any statutory or non-statutory body specified in Part I of the Scheduled and (*ii*) the office of chairman or secretary of any statutory or non-statutory body specified in Part II of the Schedule;".

Amendment of Schedule.

3. In the Schedule to the principal Act, Part III shall be omitted.

SHANKER DAYAL SHARMA,
President.

K. L. MOHANPURIA,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

B. K. SHAH,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, 6th September, 1993.

No. RP/76/93/28/93/Research/:- The following Ordinance promulgated by the President and published in the Gazette of India, Extra-ordinary, Part-II, Section dated the 2nd July, 1993 is republished for general information.

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 2nd July, 1993/Asadha 11, 1915 (Saka)

THE OIL AND NATURAL GAS COMMISSION (TRANSFER OF UNDERTAKING AND REPEAL) ORDINANCE, 1993.

No. 28 OF 1993

Promulgated by the President in the Forty-fourth Year of the Republic of India.

An Ordinance to provide for the transfer and vesting of the undertaking of the Oil and Natural Gas Commission to and in the Oil and Natural Gas Corporation Limited, a company incorporated under the Companies Act, 1956 and for matters connected therewith or incidental thereto and also to repeal the Oil and Natural Gas Commission Act, 1959.

WHEREAS, Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

INDEX

Now, THEREFORE, in exercise of the powers conferred by clause (*1*) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

Short title and commencement.

1. (*1*) This Ordinance may be called the Oil and Natural Gas Commission (Transfer of Undertaking and Repeal) Ordinance, 1993.

(*2*) It shall come into force at once.

Definitions.

2. In this Ordinance, unless the context otherwise requires.

(*a*) "appointed day" means such date as the Central Government may, by notification in the *Official Gazette*, appoint under section 3;

1 of 1956.

(*b*) "Corporation" means the Oil and Natural Gas Corporation Limited, a company registered under the Companies Act, 1956;

43 of 195

(*c*) "Commission" means the Oil and Natural Gas Commission established under sub-section (*1*) of section 3 of the Oil and Natural Gas Commission Act, 1959.

Undertaking of Commission to vest in Corporation.

3. On such date as the Central Government may by notification in the *Official Gazette* appoint, the undertaking of the Commission shall stand transferred to, and vest in, the Corporation.

4. (*1*) On and from the appointed day, the entire capital of the Commission hall, by virtue of this Ordinance, stand vested in the Corporation.

General effect of vesting undertaking in Corporation.

(*2*) The undertaking of the Commission which is transferred to, and which vests in the Corporation under section 3 shall be deemed to include all assets, rights, powers, authorities and privileges and all properties, movable and immovable, real and personal, corporeal or incorporeal, in possession or reservation, present or contingent of whatever nature and wheresoever situate including lands, buildings, works, workshops, vehicles, oil rigs, oil platforms, cash balances, deposits, foreign currencies, reserves, funds or any other investments, securities, tenancies, leases and book debts and all other right and interest arising out of such properties as were immediately before the appointed day in the ownershipffi, possession or power of the Commission in relation to its undertaking, whether within or outside India, all books of account and registers, records and documents relating thereto and shall also be deemed to include all liabilities and obligations of whatever kind, within or outside India of the Commission in relation to its undertaking subsisting immediately before the appointed day.

(*3*) All contracts, deeds, bonds, guarantees, powers of attorney, other instruments and working arrangements subsisting immediately before the appointed day and affecting the Commission shall cease to have effect or to be enforceable against the Commission and shall be of as full force and effect against or in favour of the Corporation and enforceable as fully and effectually as if, instead of the Commission, the Corporation had been named therein or had been a party thereto.

(*4*) Any proceeding or cause of action pending or existing immediately before the appointed day by or against the Commission, in relation to its undertaking may, as from the appointed day, be continued and enforced by or against the Corporation as it might have been enforced by or against the Commission, if this Ordinance had not been promulgated, and shall cease to be enforceable by or against the Commission.

Licences, etc., to be deemed to have been granted to Corporation.

5. With effect from the appointed day, all licences, leases, concessions, permits quotas, benefits, privileges and exemptions granted to the Commission in connection with the affairs of the Commission under any law for the time being in force, shall be deemed to have been granted to the Corporation.

Tax exemption or benefit to continue to have effect.

43 of 1961. 6 (*1*) Where any exemption from, or any assessment with respect to, any tax has been granted or made or any befefit by way of set of on or carry forward of any unabsorbed depreciation or investment allowance or other allowance or less has been extended or is available to the Commission under the Income-tax Act, 1961, such exemption, assessment or benefit shall continue to have effect in relation to the Corporation.

43 of 1961. (*2*) Where any payment made by the Commission is exempt from deduction of the tax at source under any provision of the Income-tax Act, 1961, the exemption from tax will continue to be available as if the provisions of the said Act, made applicable to the Commission were operative in relation to the Corporation.

43 of 1961. (*3*) The transfer and vesting of the undertaking or any part thereof in terms of section 3 shall not be construed as a transfer within the meaning of the Income-tax Act, 1961, for the purpose of capital gains.

Guarantee to be operative.

7. Any guarantee given for or in favour of the Commission with respect of any loan or lease finance or other assistance shall continue to be operative in relation to the Corporation.

Provisions in respect of officers and other employees of Commission.

8. (*1*) Every officer or other employee of the Commission (except a member or the chairman) serving in its employment immediately before the appointed day shall in so far as such officer or other employee is employed in connection with the undertaking which has vested in the Corporation by virtue of this Ordinance, become, as from the appointed day, an officer or, as the case may be, other employee of the Corporation and shall hold his office or service therein by the same tenure, at the same remuneration, upon the same terms and conditions, with the same obligations and with the same rights and privileges as to leave, passage, insurance, superannuation scheme, provident fund, other funds, retirement, pension, gratuity and other benefits as he would have held under the Commission if its undertaking had not vested in the Corporation and shall continue to do so as an officer or other employee of the Corporation or until the expiry of a period of one year from the appointed day if such officer or other employee opts not to be the officer or other employee of the Corporation within such period.

(*2*) Where an officer or other employee of the Commission opts under sub-section (*1*) not to be in the employment or service of the Corporation such officer or other employee shall be deemed to have resigned.

14 of 1947. (*3*) Notwithstanding anything contained in the Industrial Disputes Act, 1947 or in any other law for the time being in force, the transfer of the services of any officer or other employee of the Commission to the Corporation shall not entitle such officer or other employee to any compensation under this Ordinance or under any other law for the time being in force and so such claim shall be entertained by any court, tribunal or other authority.

(*4*) The officers and other employees who have retired before the appointed day from the service of the Commission and are entitled to any benefits, rights or privileges shall be entitled to receive the same benefits, rights or privileges from the Corporation.

(*5*) The trusts of the provident fund, gratuity fund, or the superannuation scheme of the Commission and any other bodies created for the welfare of officers or other employees, shall continue to discharge their functions in the Corporation as was being done hitherto in the Commission and any tax exemption granted to the provident fund, gratuity fund and superannuation scheme or any other bodies created for the welfare of officers or other employees would continue to be applied to the Corporation.

(6) Notwithstanding anything contained in this Ordinance or in the Companies Act, 1956 or in any other law for the time being in force or in the regulations of the Commission, no member or chairman of the Commission shall be entitled to any compensation aginst the Commission or the Corporation for the loss of office for the premature termination of any contract of management entered into by him with the Commission. 1 of 1956.

Power of entry.

9. (1) For the purposes of ascertaining the availability of any oil or natural gas, the Central Government may, on the request being made by the Corporation, authorise any officer or employee of the Corporation by general or special order,—

(a) to enter and inspect any land;

(b) to survey and take measurements of any such land;

(c) to dig holes or perform any other functions for the purposes of measuring or prospecting for the availability of oil and natural gas; and

(d) to examine any document, book, register or record in the possession or power of any person having the control of or connected with any such land and place marks of indentification thereon and take extarcts for, and make copies of any such document, book, register or record.

(2) Every person authorised by the Central Government under sub-section (1) shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. 45 of 1860.

(3) The Coporation shall be liable to pay compensation for any loss or damage caused to the land casued by its officers or employees in performing the functions under sub-section (1) in such manner as may be prescribed by rules made under this Ordiance to the occupier of the land.

(4) The Amount of compensation payable under sub-section (3) shall be determined by the competent authority appointed by the Central Government in the manner prescribed by rules made under this Ordinance.

Power to make rules.

10. (1) The Central Government may, by notification in the *Official Gazette*, make rules for carrying out the provisions of this Ordinance.

(2) Every rule made under this Ordinance shall be laid, as soon as may be after it is made before each house of Parliament, while in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under the rule.

Repeal of act.

11. (1) On the appointed day, the Oil and Natural Gas Commission Act, 1959 shall stand repealed. 43 of 1959.

(2) Notwithstanding such repeal, the Corporation shall, so far as may be comply with the provisions of section 22 and 23 of the said Act so repealed for any of the purposes related to the annual accounts of the Commission.

SHANKER DAYAL SHARMA,
President.

K. L. MOHANPURIA,
Secy. to the Govt. of India.

By order and in the name of the Governor of Gujarat,

B. K. SHAH,
Secretary to Government.

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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, 22nd September, 1993.

No. RP/105/93/31/93/Research :—The following Act of Parliament is re-published for general information :

GOVERNMENT OF INDIA
MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS,
(Legislative Department)

New Delhi, the 3rd April, 1993/Chaitra 13,1915 (Saka)

The following Act of Parliament received the assent of the President on the 2nd April, 1993 and is hereby published for general information.

THE INDIAN MEDICAL COUNCIL (AMENDMENT) ACT, 1993

[Act No. 31 of 1993] [2nd April, 1993]

An Act

further to amend the Indian Medical Council Act, 1956.

Be it enacted by Parliament in the Forty-fourth Year of the Republic of India as follows :—

Short title and commencement.

1. (*1*) This Act may be called the Indian Medical Council (Amendment) Act, 1993.

(*2*) It shall be deemed to have come into force on the 27th day of August, 1992.

INDEX

Insertion of new sections 10A, 10B and 10C.

2. After section 10 of the Indian Medical Council Act, 1956 (hereinafter referred to as the principal Act), the following sections shall be inserted, namely :— **102 of 1956.**

Permission for establishment of new mdiecal college, new course of study, etc.

'10A. (*1*) Notwithstanding anything contained in this Act or any other law for the time being in force ,—

(a) no person shall establish a medical college; or

(b) no medical college shall—

(*i*) open a new or higher course of study or training (including a post-graduate course of study or training) which would enable a student of such course or training to qualify himself for the award of any recognised medical qualification; or

(*ii*) increase its admission capacity in any course of study or training (including a post-graduate course of study or training),

except with the previous permission of the Central Government obtained in accordance with the provisions of this section.

Explanation 1.—For the purposes of this section, "person" includes any University or a trust but does not include the Central Government.

Explanation 2.—For the purposes of this section, "admission capacity", in relation to any course of study or training (including post graduate course of study or training) in a medical college, means the maximum number of students that may be fixed by the Council from time to time for being admitted to such course or training.

(*2*) (*a*) Every person or medical college shall, for the purpose of obtaining permission under sub-section (*1*) submit to the Central Government a scheme in accordance with the provisions of clause (*b*) and the Central Government shall refer the scheme to the Council for its recommendations.

(*b*) The scheme referred to in clause (a) shall be in such form and contain such particulars and be preferred in such manner and be accompanied with such fee as may be prescribed.

(*3*) On receipt of a scheme by the Council under sub-section (*2*), the Council may obtain such other particulars as may be considered necessary by it from the person or the medical college cencerned, and thereafter, it may,—

(*a*) if the scheme is defective and does not contain any necessary particulars, give a reasonable opportunity to the person or college concerned for making a written representation and it shall be open to such person or medical college to rectify the defects, if any, specified by the Council;

(*b*) consider the scheme, having regard to the factors referred to in sub-section (*7*), and submit the scheme together with its recommendations thereon to the Central Government.

(*4*) The Central Government may, after considering the scheme and the recommendations of the Council under sub-section (*3*) and after obtaining, where necessary, such other particulars as may be considered necessary by it from the person or college concerned, and having regard to the factors referred to in sub-section (*7*) either approve (with such conditions, if any, as it may consider necessary) or disapprove the scheme and any such approval shall be a permission under sub-section (*1*):

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Provided that no scheme shall be disapproved by the Central Government except after giving the person or college concerned a reasonable opportunity of being heard:

Provided further that nothing in this sub-section shall prevent any person or medical college whose scheme has not been approved by the Central Government to submit a fresh scheme and the provisions of this section shall apply to such scheme, as if such scheme has been submitted for the first time under sub-section (*2*).

(*5*) Where, within a period of one year from the date of submission of the scheme to the Central Government under sub-section (*2*), no order passed by the Central Government has been communicated to the person or college submitting the scheme, such scheme shall be deemed to have been approved by the Central Government in the form in which it had been submitted, and, accordingly, the permission of the Central Government required under sub-section (*1*) shall also be deemed to have been granted.

(*6*) In computing the time-limit specified in sub-section (5), the time taken by the person or college concerned submitting the scheme, in furnishing any particulars called for by the Council, or by the Central Government shall be excluded.

(*7*) The Council, while making its recommendations under clause (*b*) of sub-section (3) and the Central Government, while passing an order, either approving or disapproving the scheme under sub-section (4), shall have due regard to the following factors, namely :—

(*a*) whether the proposed medical college or the existing medical college seeking to open a new or higher course of study or training, would be in a position to offer the minimum standards of medical education as perscribed by the Council under section 19A or, as the case may be, under section 20 in the case of post-graduate medical education;

(*b*) whether, the person seeking to establish a medical college or the existing medical college seeking to open a new or higher course of study or training or to increase its admission capacity has adequate financial resources;

(*c*) whether necessary facilities in respect of staff, equipment, accommodation, training and other facilities to ensure proper functioning of the medical college or conducting the new course of study or training or accommodating the increased admission capacity have been provided or would be provided within the time-limit specified in the scheme.

(*d*) whether adequate hospital facilities, having regard to the number of students likely to attend such medical college or course of study or training or as a result of the increased admission capacity, have been provided or would be provided within the time-limit specified in the scheme;

(*e*) whether any arrangement has been made or programme drawn to impart proper training to students likely to attend such medical college or course of study or training by persons having the recognised medical qualifications ;

(*f*) the requirement of manpower in the field of practice of medicine; and

(*g*) any other factors as may be prescribed.

(8) Where the Central Government passes an order either approving or disapproving a scheme under this section, a copy of the order shall be communicated to the person or college concerned.

Non-recognition of medical qualification in certain cases.

10B. (*1*) Where any medical college is established except with the previous permission of the Central Government in accordance with the provisions of section 10A, no medical qualification granted to any student of such medical college shall be a recognised medical qualification for the purposes of this Act.

(*2*) Where any medical college opens a new or higher course of study or training (including a post-graduate course of study or training) except with the previous permission of the Central Government in accordance with the provisions of section 10A, no medical qualification granted to any students of such medical college on the basis of such study or training shall be a recognised medical qualification for the purposes of this Act.

(*3*) Where any medical college increases its admission capacity in any course of study or training except with the previous permission of the Central Government in accordance with the provisions of section 10A. no medical qualification granted to any student of such medical college on the basis of the increase in its admission capacity shall be a recognised medical qualification for the purpose of this Act.

Explanation.—For the purposes of this section the criteria for identifying a student who has been granted a medical qualification on the basis of such increase in the admission capacity shall be such as may be prescribed.

Time for seeking permission for certain existing medical colleges, etc.

10C. (*1*) If, after the 1st day of June, 1992 and on and before the commencement of the Indian Medical Council (Amendment) Act, 1993 any person has established a medical college or any medical college has opened a new or higher course of study or training or increase the admission capacity, such preson or medical college, as the case may be, shall be seek, within a period of one year from the commencement of the Indian Medical Council (Amendment) Act, 1993, the permission of the Central Government in accordance with the provisions of section 10A.

(*2*) If any person or medical college, as the case may be, fails to seek the permission under sub-section (*1*), the provisions of section 10B shall apply, so far as may be, as if, permission of the Central Government under section 10A has been refused.

Amendment of section 33.

3. In section 33 of the principal Act, after clause (f) the following clauses shall be inserted, namely:—

"(*fa*) the form of the scheme, the particulars to be given in such scheme, the manner in which the scheme is to be preferred and the fee payable with the scheme under clause (*b*) of sub-section (*2*) of section 10A;

(*fb*) any other factors under clause (*g*) of sub-section (*7*) of section 10A;

(*fc*) the criteria for identifying a student who has been granted a medical qualification referred to in the *Explanation* to sub-section (*3*) of section 10B.".

Repeal and saving.

4. (*1*) The Indian Medical Council (Amendment) Ordinance, 1993 is hereby repealed. **Ord. 2 of 1993.**

(*2*) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

SHRI B. R. ATRE,
Joint Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,
B. K. SHAH,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, 22nd September, 1993.

No. RP/106/93/32/93/Research.—The following Act of Parliament is re-published for general information:—

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS.
(Legislative Department)

New Delhi, the 3rd April, 1993/Chaitra 13, 1915 (Saka).

The following Act of Parliament received the assent of the President on the 2nd April, 1993 and is hereby published for general information :

THE INTEREST ON DELAYED PAYMENTS TO SMALL SCALE AND ANCILLARY INDUSTRIAL UNDERTAKINGS ACT, 1993.

[Act No. 32 of 1993] **[2nd April, 1993]**

AN ACT

to provide for and regulate the payment of interest on delayed payments to small scale and ancillary industrial undertakings and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Forty-fourth Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Interest on Delayed Payments to Small Scale and Ancillary Industrial Undertakings Act, 1993.

(*2*) It extends to the whole of India, except the State of Jammu and Kashmir.

(*3*) It shall be deemed to have come into force on the 23rd day of September, 1992.

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Definitions. 2. In this Act, unless the context otherwise requires,—

(*a*) "ancillary industrial undertaking" has the meaning assigned to it by clause (*aa*) of section 3 of the Industries (Development and Regulation) Act, 1951; 65 of 195

(*b*) "appointed day" means the day following immediately after the expiry of the period of thirty days from the day of acceptance or the day of deemed acceptance of any goods or any services by a buyer from a supplier;

Explanation.—For the purposes of this clause,—

(*i*) "the day of acceptance" means,—

(*a*) the day of the actual delivery of goods or the rendering of services; or

(*b*) where any objection is made in writing by the buyer regarding acceptance of goods or services within thirty days from the day of the delivery of goods or the rendering of services, the day on which such objection is removed by the supplier;

(*ii*) "the day of deemed acceptance" means, where no objection is made in writing by the buyer regarding acceptance of goods or services within thirty days from the day of the delivery of goods or the rendering of services, the day of the actual delivery of goods or the rendering of services;

(*c*) "buyer" means whoever buys any goods or receives any services from a supplier for consideration;

(*d*) "goods" means every kind of movable property other than actionable claims and money;

(*e*) "small scale industrial undertaking" has the meaning assigned to it by clause (*j*) of section 3 of the Industries (Development and Regulation) Act, 1951; 65 of 1951

(*f*) "supplier" means an ancillary industrial undertaking or a small scale industrial undertaking holding a permanent registration certificate issued by the Directorate of Industries of a State or Union territory.

Liability of buyer to make payment. 3. Where any supplier supplies any goods or renders any services to any buyer, the buyer shall make payment therefor on or before the date agreed upon between him and the supplier in writing or, where there is no agreement in this behalf, before the appointed day.

Date from which and rate at which interest is payable. 4. Where any buyer fails to make payment of the amount to the supplier, as required under section 3, the buyer shall, notwithstanding anything contained in any agreement between the buyer and the supplier or in any law for the time being in force, be liable to pay interest to the supplier on that amount from the appointed day or, as the case may be, from the date immediately following the date agreed upon, at such rate which is five per cent points above the floor rate for comparable lending.

Explanation.—For the purposes of this section, "floor rate for comparable lending" means the highest of the minimum lending rates charged by scheduled banks (not being co-operative banks) on credit limits in accordance with the directions given or issued to banking companies generally by the Reserve Bank of India under the Banking Regulation Act, 1949. 10 of 1949

Liability of buyer to pay Compound interest. 5. Notwithstanding anything contained in any agreement between a supplier and a buyer or in any law for the time being in force, the buyer shall be liable to pay compound interest (with monthly rests) at the rate mentioned in section 4 on the amount due to the supplier.

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6. The amount due from a buyer, together with the amount of interest calculated in accordance with the provisions of sections 4 and 5, shall be recoverable by the supplier from the buyer by way of a suit or other proceeding under any law for the time being in force. Recovery of amount due.

7. No appeal against any decree, award or other order shall be entertained by any court or other authority unless the appellant (not being a supplier) has deposited with it seventy-five per cent. of the amount in terms of the decree, award or, as the case may be, other order in the manner directed by such court or, as the case may be, such authority. Appeal

8. Where any buyer is required to get his annual accounts audited under any law for the time being in force, such buyer shall specify the amount together with the interest in his annual statement of accounts as remains unpaid to any supplier at the end of each accounting year. Requirement to specify unpaid amount with interest in the annual statement of accounts.

9. Notwithstanding anything contained in the Income-tax Act, 1961, the amount of interest payable or paid by any buyer, under or in accordance with the provisions of this Act, shall not, for the purposes of computation of income under the Income-tax Act, 1961, be allowed as deduction. Interest not to be allowed as deduction from income. 43 of 1961.

10. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force. Overriding effect.

11. (*1*) The Interest on Delayed Payments to Small Scale and Ancillary Industrial Undertakings Ordinance, 1993 is hereby repealed. Repeal and saving. Ord. of 1993.

(*2*) Notwithstanding such repeal, anything done or any action taken under the Ordinance so repealed shall be deemed to have been done or taken under the corresponding provisions of this Act.

SHRI B. R. ATRE,
Joint Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

B. K. SHAH,
Secretary to Government.

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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, 22nd September, 1993.

No. RP/107/93/35/93/Research.—The following Act of Parliament is re-published for general information :—

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 13th April, 1993/Chaitra 23, 1915 (Saka)

The following Act of Parliament received the assent of the President on the 13th April, 1993 and is hereby published for general information :—

THE PASSPORTS (AMENDMENT) ACT, 1993

[Act No. 35 of 1993]

[13th April, 1993]

AN ACT

further to amend the Passports Act, 1967.

Be it enacted by Parliament in the Forty-fourth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Passports (Amendment) Act, 1993.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

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15 of 1967.

Amendment of section 5.

2. In section 5 of the Passports Act, 1967 (hereinafter referred to as the principal Act), in sub-section (*1*), for the words "a fee of rupees fifty", the following words shall be substituted, namely:—

"such fee as may be prescribed to meet the expenses incurred on special security paper, printing, lamination and other connected miscellaneous services in issuing passports and other travel documents".

Substitution of new section for section 8.

3. For section 8 of the principal Act, the following section shall be substituted, namely:—

Extension of period of assport.

"8. Where a passport is issued for a shorter period than the prescribed period under section 7, such shorter period shall, unless the passport authority for reasons to be recorded in writing otherwise determines, be extendable for a further period (which together with the shorter period shall not exceed the prescribed period) and the provisions of this Act shall apply to such extension as they apply to the issue thereof.".

Amendment of section 10.

4. In section 10 of the principal Act, in sub-section (*3*), after clause (*b*), the following proviso shall be inserted, namely:—

"Provided that if the holder of such passport obtains another passport, the passport authority shall also impound or cause to be impounded or revoke such other passport.".

Amendment of section 11.

5. In section 11 of the principal Act, in sub-section (*4*), for the words and brackets "by such fee (if any) not exceeding rupees twenty-five as may be prescribed", the words "by such fee as may be prescribed for meeting the expenses that may be incurred in calling for relevant records and for connected services" shall be substituted.

Amendment of section 12.

6. In section 12 of the principal Act,—

(*a*) in sub-section (*1*), for the words "six months or with fine which may extend to two thousand rupees", the words "two years or with fine which may extend to five thousand rupees" shall be substituted;

(*b*) after sub-section (*1*), the following sub-section shall be inserted, namely:—

"(*1A*) Whoever, not being a citizen of India,—

(*a*) makes an application for a passport or obtains a passport by suppresing information about his nationality, or

(*b*) holds a forged passport or any travel document, shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to five years and with fine which shall not be less than ten thousand rupees but which may extend to fifty thousand rupees.";

(*c*) in sub-section (*2*), for the word, brackets and figure "sub-section (*1*)", the words, brackets, figures and letter "sub-section (*1*) or sub-section (*1A*)" shall be substituted.

Amendment of sections 13 and 14.

7. In section 13, in sub-section (*1*) and in section 14, in sub-section (*1*) of the principal Act, for the words "officer of police", the words "officer of police or emigration officer" shall be substituted.

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8. Sections 18 and 26 of the principal Act shall be omitted. Ommission of sections 18 and 26.

7 of 1922. 31 of 1983. **9.** In section 23 of the principal Act, for the words and figures "the Emigration Act, 1922", the words and figures "the Emigration Act, 1983" shall be substituted. Amendment of section 23.

10. In section 24 of the principal Act, in sub-section (*2*), in clause (*f*), for the words "any application for the issue or renewal of a passport", the words, figures and brackets "any application for the issue of a passport under sub-section (*1*) or section 5 of issue of a passport" shall be substituted. Amendment of section 24.

SHRI K. L. MOHANPURIA,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

B. K. SHAH,
Secretary to Government.

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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, 22nd September, 1993.

No. PR/108/93/36/93/Research.—The following Act of Parliament is re-published for general information :

GOVERNMENT OF INDIA
MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
(LEGISLATIVE DEPARTMENT),
New Delhi, the 26th April, 1993/Vaisakha 6, 1915 (Saka).

The following Act of Parliament received the assent of the President on the 26th April, 1993 and is hereby published for general information:

THE SAARC CONVENTION (SUPPRESSION OF TERRORISM) ACT, 1993.

[Act No. 36 of 1993] [26th April, 1993]

AN ACT

to give effect to the South Asian Association for Regional Cooperation Convention on Suppression of Terrorism and for matters connected therewith or incidental thereto.

Whereas a Convention on the Suppression of Terrorism was signed on behalf of the Government of India at Kathmandu on the 4th day of November, 1987;

And whereas India, having ratified the said Convention, should make provisions for giving effect thereto and for matters connected therewith [illegible] incidental thereto;

Be it enacted by Parliament in the Forty-fourth Year of the Republic of India as follows :—

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Short title, extent and application.

1. (*1*) This Act may be called the SAARC Convention (Suppression of Terrorism) Act, 1993.

(*2*) It extends to the whole of India and, subject to the provisions of section 6, it applies also to any offence under this Act committed outside India by any person.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "Convention" means the South Asian Association for Regional Cooperation Convention on Suppression of Terrorism signed at Kathmandu on the 4th day of November, 1987 as set out in the Schedule;

(b) "Convention country" means a country in which the Convention is for the time being in force.

Application of the Convention.

3. Notwithstanding anything to the contrary contained in any other law, the provisions of Articles I to VIII to the Convention shall have the force of law in India.

Hostage-taking.

4. (*1*) Whoever, by force or threat of force or by any other form of intimation, seizes or details any person and threatens to kill or injure that person with intent to cause a Convention country to do or abstain from doing any act as the means of avoiding the execution of such threat, commits the offence of hostage-taking.

(*2*) Whoever commits the offence of hostage-taking shall be punished with imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Provisions as to Extradition Act.

5. For the purposes of the Extradition Act, 1962, in relation to a Convention country, an offence under sub-section (*1*) of section 4 or any other offence specified in Article I of the Convention, shall not be considered to be an offence of a political character. **34 of 1962.**

Offences committed outside India.

6. (*1*) When an offence under sub-section (*1*) of section 4 of any other offence specified in Article I of the Convention is committed outside India :—

(a) by a citizen of India, whether on the high seas or elsewhere;

(b) by a person, not being such citizen, on any ship or aircraft, registered in India;

(c) by a person, not being such citizen, in a Convention country;

he may be dealt with in respect of such offence as if it had been committed at any place within India at which he may be found.

(*2*) Notwithstanding anything contained in sub-section (*1*), the Central Government may, by general or special order published in the Official Gazette, direct that the offence under sub-section (*1*) of section 4 or any other offence specified in Article I of the Convention may be inquired into or tried at any place within India.

Previous sanction necessary for prosecution.

7. No prosecution for an offence under this Act shall be instituted except with the previous sanction of the Central Government and the sanction granted under this section shall be deemed to be a sanction granted under section 188 of the Code of Criminal Procedure, 1973. **2 of 1974.**

Protection of action taken in good faith.

8. (*1*) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act.

(*2*) No suit or other legal proceeding shall lie against the Central Government for any damage caused or likely to be caused for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act.

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THE SCHEDULE

[*See* section 2 (*a*)]

SAARC REGIONAL CONVENTION OF SUPPRESSION OF TERRORISM

THE MEMBER STATES OF THE SOUTH ASIAN ASSOCIATION FOR REGIONAL COOPERATION (SAARC)

MINDFUL of the principal of cooperation enshrined in the SAARC Charter;

RECALLING that at the Dhaka Submit on December 7-8, 1985, the Heads of State or Government of the member States of the SAARC recognised the seriousness of the problem of terrorism as it affects the security and stability of the region ;

ALSO RECALLING the Bangalore Summit Declaration of 17th November, 1986, in which the Heads of State or Government of SAARC agreed that cooperation among SAARC State was vital if terrorism was to be prevented and eliminated from the region; unequivocally condemned all acts, methods and practices of terrorism as criminal and deplored their impact on life and property, socio-economic development, political stability, regional and international peace and cooperation; and recognised the importance of the principles laid down in UN Resolution 262 (XXV) which among others required that each State should refrain from organising, instigating, assisting or participating in acts of civil strife or terrorist acts in another State or acquiescing in organised activities within its territory directed towards the commission of such acts;

AWARE of the danger posed by the spread of terrorism and its harmful effect on peace, cooperation, friendship and good neighbourly relations and which could also jeopardise the sovereignty and territorial integrity of States;

HAVE RESOLVED to take effective measures to ensure that perpetrators of terroristic acts do not escape prosecution and punishment by providing for thier extradition or prosecution, and to this end ;

HAVE AGREED as follows :—

ARTICLE I

Subject to the overall requirements of the law of extradition, conduct constituting any of the following offences, according to the law of the Contracting State, shall be regarded as terroristic and for the purpose of extradition shall not be regarded as a political offence or as an offence connected with a political offence or as an offence inspired by political motives :—

(*a*) an offence within the scope of the Convention for the Suppression of Unlawful Seizure of Article, signed at the Hauge, on December 16, 1970;

(*b*) an offence within the scope of the Convention for the Suppression of Unlawful Act, against the Safety of Civil Aviations signed at Montreal, on September 23, 1971;

(*c*) an offence within the scope of the Convention of the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, signed at New Yourk, on December 14, 1973;

(*d*) an offence within the scope of any Convention to wihich the SAARC member States concerned are parties and which obliges the parties to prosecute or grant extradition;

(*e*) murder, manslaughter, assault causing bodily harm, kidnapping hostage-taking and offences relating to firearms, weapons explosives and dangerous substances when used as a means to perpetrate indiscriminate violence involving death or serious bodily injury to persons or serious damage to property;

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(*f*) an attempt or conspiracy to commit an offence described in sub-paragraphs (*a*) to (*e*), aiding, abetting or counselling the commission of such an offence or participating as an accomplice in the offences so described.

ARTICLE II

For the purpose of extradition between SAARC member States, any two or more Contracting States may, by agreement, decide to include any other serious offence involving violence, which shall not be regarded as a political offence or an offence connected with a political offence or an offence inspired by political motives.

ARTICLE III

1. The provisions of all extradition treaties and arrangements applicable between Contracting States are hereby amended as between Contracting States to the extent that they incompatible with this Convention.

2. For the purpose of this Convention and to the extent that any offence referred to in Article I or agreed to in terms of Article II is not listed as an extraditable offence in any extradition treaty existing between Contracting States, it shall be deemed to be included as such therein.

3. Contracting States undertake to include these offences as extraditable offence in any future extradition treaty to be concluded between them.

4. If a Contracting State which makes extradition conditional on the existence of a treaty receives a request for extradition from another Contracting State with which it has no extraditian treaty, the requested State may, at its option, consider this Convention as the basis for extradition in respect of the offences set forth in Article I or agreed to in terms of Article II. Extradition shall be subject to the law of the requested State.

5. Contracting States which do not make extradition conditional on the existence of a treaty, shall recognise the offences set forth in Article I or agreed to in terms of Article II as extraorditable offences between themselves, subject to the law of the requested State.

ARTICLE IV

A Contracting State in whose territory a person suspected of having committed an offence referred to in Article I or agreed to in terms of Article II is found and which has received a request for extradition from another Contracting State, shall, if it does not extradite that person, submit the case without exception and without delay, to its competent authorities so that prosecution may be considered. These authorities shall take their decisions in the same manner as in the case of any offence of a serious nature under the law of that State.

ARTICLE V

For the purpose of Article IV, each Contrcating State may take such measures as it deems appropriate, consistent with its national laws subject to reciprocity, to exercise its jurisdiction in the case of an offece under Article I or agreed to in terms of Article II.

ARTICLE VI

A Contracting State in whose territory an alleged offender is found, shall, upon receiving a request for extradition from another Contracting State, take appropriate measures, subject to its national laws, so as to ensure his presence for purposes of extradition or prosecution. Such measures shall immediately be notified to the requesting State.

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ARTICLE VII

Contracting States shall not be obliged to extradite, if it appears to the requested State that by reason of the trivial nature of the case or by reason of the request for the surrender or return of a fugitive offender not being made in good faith or in the intersts of justice or for any other reason it is unjust or in expedient to surrender or return the fugitive offender.

ARTICLE VIII

1. Contracting States shall, subject to their national laws, afford one another the greatest measure of mutual assiastance in connection with proceedings brought in respect of the offences referred to in Articel I or agreed to in terms of Article II, including the supply of all evidence at their disposal necessary for the proceedings.

2. Contracting States shall cooperate among themselves, to the extent permitted by their national laws, through consultations between appropriate agencies, exchange of information intelligence and expertise and such other cooperative measures as may be appropriate, with a view to preventing terroristic activities through precautionary measures.

ARTICLE IX

1. The Convention shall be open for signature by the member States of SAARC at the SAARC Secretariate in Kathmandu.

2. It shall be subject to ratification. Instruments of Ratification shall be deposited with the Secretary-General of SAARC.

ARTICLE X

This Convention shall enter into force on the fifteenth day following the date of the deposit of the Seventh Instrument of Ratification with the Secretary-General of SAARC.

ARTICLE XI

The Secretary-General SAARC shall be the depository of this Convention and shall notify member States of signatures to this Convention and all deposits of Instruments of Ratification. The Secretary General, shall transmit certified copies of such Instruments to each member State. The Secretary-General shall also inform member States of the date on which this Convention will have entered into force in accordance with Article X.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto by their respective Governments have signed this Convention.

DONE at Kathmandu on this fourth day of November one thousand nine hundred and eighty-seven, in eight originals, in the English language, all texts being equally authentic.

SHRI K. L. MOHANPURIA,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

B. K. SHAH,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, 27th September, 1993.

No. RP/109/93/38/93/Research.—The following Act of Parliament is re-published for general information:

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 13th May, 1993/Vaisakh 23, 1915 (Saka)

The following Act of Parliament received the assent of the President on the 13th May, 1993 and is hereby published for general information:

THE FINANCE ACT, 1993

[Act No. 38 of 1993] [13th May, 1993]

AN ACT

to give effect to the financial proposals of the Central Government for the financial year 1993-94

BE it enacted by Parliament in the Forty-fourth Year of the Republic of India as follows:—

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CHAPTER I

PRELIMINARY

Short title and commencement.

1. (*1*) This Act may be called the Finance Act, 1993.

(*2*) Save as otherwise provided in this Act, sections 2 to 42 (except section 14) shall be deemed to have come into force on the 1st day of April, 1993.

CHAPTER II

RATES OF INCOME-TAX

Income-tax.

2. (*1*) Subject to the provisions of sub-sections (*2*) and (*3*), for the assessment year commencing on the 1st day of April, 1993, income-tax shall be charged at the rates specified in Part I of the First Schedule and such tax as reduced by the rebate of income-tax calculated under Chapter VIII-A of the Income-tax Act, 1961 (hereinafter referred to as the Income-tax Act) shall be increased,— 43 of 1961

(*a*) in the cases to which Paragraphs A, B, C and D of that Part apply, by a surcharge for purposes of the Union; and

(*b*) in the cases to which Paragraph E of that Part applies, by a surcharge,

calculated in each case in the manner provided therein.

(*2*) In the cases to which Sub-Paragraph I or Sub-Paragraph II of Paragraph A of Part I of the First Schedule applies, where the assessee has, in the previous year, any net agricultural income exceeding six hundred rupees, in addition to total income, and the total income exceeds,—

(*i*) in a case to which the said Sub-Paragraph I applies, twenty-eight thousand rupees, and

(*ii*) in a case to which the said Sub-Paragraph II applies, eighteen thousand rupees.

then,—

(*a*) the net agricultural income shall be taken into account, in the manner provided in clause (*b*) [that is to say, as if the net agricultural income were comprised in the total income after,—

(*i*) in a case to which the said Sub-Paragraph I applies, the first twenty-eight thousand rupees, and

(*ii*) in a case to which the said Sub-Paragraph II applies, the first eighteen thousand rupees,

of the total income but without being liable to tax], only for the purpose of charging income-tax in respect of the total income; and

(*b*) the income-tax chargeable shall be calculated as follows:—

(*i*) the total income and the net agricultural income shall be aggregated and the amount of income-tax shall be determined in respect of the aggregate income at the rates specified in Sub-Paragraph I or, as the case may be, Sub-Paragraph II of the said Paragraph A, as if such aggregate income were the total income;

(*ii*) the net agricultural income shall be increased,—

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(*A*) in a case to which the said Sub-Paragraph I applies, by a sum of twenty-eight thousand rupees; and

(*B*) in a case to which the said Sub-Paragraph II applies, by a sum of eighteen thousand rupees,

and the amount of income-tax shall be determined in respect of the net agricultural income as so increased at the rates specified in Sub-Paragraph I or, as the case may be, Sub-Paragraph II of the said Paragraph A, as if the net agricultural income as so increased were the total income;

(*iii*) the amount of income-tax determined in accordance with sub-clause (*i*) shall be reduced by the amount of income-tax determined in accordance with sub-clause (ii) and the sum so arrived at shall be the income-tax in respect of the total income:

Provided that the amount of income-tax so arrived at, as reduced by the rebate of income-tax calculated under Chapter VIII-A of the Income-tax Act, shall, in the case of every person having a total income exceeding one hundred thousand rupees, be increased by a surcharge for purposes of the Union calculated at the rate of twelve per cent of such income-tax and the sum so arrived at shall be the income-tax in respect of the total income.

(3) In cases to which the provisions of Chapter XII or Chapter XII-A or sub-section (1*A*) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act apply, the tax chargeable shall be determined as provided in that Chapter or that section, and with reference to the rates imposed by sub-section (*1*) or the rates as specified in that Chapter or section, as the case may be :

Provided that the amount of income-tax computed in accordance with the provisions of section 112 shall be increased by a surcharge for purposes of the Union or surcharge as provided in Paragraph A, B, C, D or E, as the case may be, of Part I of the First Schedule :

Provided further that in respect of any income chargeable to tax under section 115B or section 115BB of the Income tax Act,—

(*a*) the income-tax computed under section 115-B shall be increased by a surcharge calculated at the rate of fifteen per cent. of such income tax; and

(*b*) the income-tax computed under section 115BB shall be increased,—

(*i*) in the case of a person other than a company, being a resident in India, by a surcharge for purposes of the Union calculated at the rate of twelve per cent. of such income-tax; and

(*ii*) in the case of a domestic company, by a surcharge calculated at the rate of fifteen per cent of such income-tax.

(4) In cases in which tax has to be deducted under sections 193, 194, 194-A, 194B, 194BB, 194D, and 195 of the Income-tax Act at the rates in force, the deduction shall be made at the rates specified in Part II of the First Schedule and shall be increased,—

(*a*) in the cases to which the provisions of sub-item (*a*) of item I of that Part apply, by a surcharge for purposes of the Union; and

(*b*) in the cases to which the provisions of sub-item (*a*) of item 2 of that Part apply, by a surcharge,

calculated in each case in the manner provided therein.

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(5) In cases in which tax has to be deducted under sections 194C, 194EE, 194F and 194G of the Income-tax Act, the deduction shall be made at the rates specified in those sections and shall be increased by a surcharge for purposes of the Union calculated at the rate of twelve per cent. of such deduction :

Provided that in the case of an assessee, being a domestic company, the provisions of this sub-section shall have effect, as if for the words "twelve per cent.", the words "fifteen per cent." had been substituted.

(6) In cases in which tax has to be collected under section 206C of the Income-tax Act, the collection shall be made at the rate specified in that section and shall be increased by a surcharge for purposes of the Union calculated at the rate of twelve per cent. of such collection :

Provided that in the case of a buyer, being a domestic company, the provisions of this sub-section shall have effect as if for the words "twelve per cent.", the words "fifteen per cent." had been substituted.

(7) Subject to the provisions of sub-section (8), in cases in which income-tax [illegible] to be calculated under the first proviso to sub-section (5) of section 132 of the Income-tax Act or charged under sub-section (4) of section 172 or sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 of the said Act or deducted under section 192 of the said Act from income chargeable under the head "Salaries" or in which the "advance tax" payable under Chapter XVII--C of the said Act has to be computed, at the rate or rates in force, such income-tax or, as the case may be, "advance tax" shall be so calculated, charged, deducted or computed at the rate or rates specified in Part--III of the First Schedule and such tax as reduced by the rebate of income-tax calculated under Chapter VIII--A of the said Act shall be increased,—

(a) in the cases to which Paragraphs A, B, C and D of that Part apply, by a surcharge for purposes of the Union; and

(b) in the cases to which Paragraph E of that Part applies, by a surcharge,

calculated in each case in the manner provided therein :

Provided that in cases to which the provisions of Chapter XII or Chapter XII--A or sub-section (1*A*) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act apply, "advance-tax" shall be computed with reference to the rates imposed by this sub-section or the rates as specified in that Chapter or section, as the case may be :

Provided further that the amount of income-tax computed in accordance with the provisions of section 112 shall be increased by a surcharge for purposes of the Union or surcharge as provided in Paragraph A, B, C, D, or E, as the case may be, of Part III of the First Schedule ;

Provided also that in respect of any income chargeable to tax under section 115B of the Income-tax Act, the "advance tax" computed under the first proviso shall be increased by a surcharge for purposes of the Union calculated at the rate of fifteen per cent, of such "advance tax".

(8) In the cases to which Sub-Paragraph I or Sub-Paragraph II of Paragraph A of Part--III of the First Schedule applies, where the assessee has, in the previous year or, if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect of the income of a period other than the previous year, in such other period, any net agricultural income exceeding six hundred rupees, in addition to total income and the total income exceeds,—

(i) in a case to which the said Sub-Paragraph I applies, thirty thousand rupees and

(ii) in a case to which the said Sub-Paragraph II applies, eighteen thousand rupees ,

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then, in calculating income-tax under the first proviso to sub-section (5) of section 132 of the Income-tax Act or in charging income-tax under sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 of the said Act or in computing the "advance tax" payable under Chapter XVII--C of the said Act, at the rate or rates in force ;—

(*a*) the net agricultural income shall be taken into account, in the manner provided in clause (b) [that is to say, as if the net agricultural income were comprised in the total income after,—

(*i*) in a case to which the said Sub-Paragraph I applies, the first thirty thousand rupees, and

(*ii*) in a case to which the said Sub-Paragrapph II applies, the first eighteen thousand rupees ,

of the total income but without being liable to tax], only for the purpose of calculating, charging or computing such income-tax or, as the case may be, "advance tax" in respect of the total income; and

(*b*) such income-tax or, as the case may be, "advance tax" shall be so calculated, charged or computed as follows :—

(*i*) the total income and the net agricultural income shall be aggregated and the amount of income-tax or "advance tax" shall be determined in respect of the aggregate income at the rates specified in Sub-Paragraph I or, as the case may be, Sub-Paragraph II of the said Paragraph A, as if such aggregate income were the total income ;

(*ii*) the net agricultural income shall be increased,—

(*A*) in a case to which the said sub-Paragraph I applies, by a sum of thirty thousand rupees; and

(*B*) in a case to which the said Sub-Paragraph II applies, by a sum of eighteen thousand rupees,

and the amount of income-tax or "advance tax" shall be determined in respect of the net agricultural income as so increased at the rates specified in the said Sub-Paragraph I or, as the case may be, the said Sub-Paragraph II as if the net agricultural income as so increased were the total income ;

(*iii*) the amount of income-tax or "advance tax" determined in accordance with sub-clause (*i*) shall be reduced by the amount of income-tax or, as the case may be, "advance tax" determined in accordance with sub-clause (*ii*) and the sum so arrived at shall be the income-tax or, as the case may be, "advance tax" in respect of the total income ;

Provided that the amount of income-tax or "advance tax" so arrived at, as reduced by the rebate of income-tax calculated under Chapter VIII--A of the said Act, shall, in the case of every person having a total income exceeding one hundred thousand rupees, be increased by a surcharge for purposes of the Union calculated at the rate of twelve per cent. of such income-tax or, as the case may be, "advance tax" and the sum so arrived at shall be the income-tax or, as the case may be, "advance tax" in respect of the total income.

(9) For the purposes of this section and the First Schedule,—

(*a*) "company in which the public are substantially interested" means a company within the meaning of caluse (18) of section 2 of the Income-tax Act, and includes a subsidiary of such company if the whole of the share capital of such subsidiary company has been held by the parent company or by its nominees throughout the previous year ;

(b) "domestic company" means an Indian company or any other company which, in respect of its income liable to income-tax under the Income-tax Act for the assessment year commencing on the 1st day of April, 1993, has made the prescribed arrangements for the declaration and payment within India of the dividends (including dividends on preference shares) payable out of such income in accordance with the provisions of section 194 of the Act ;

(c) "insurance commission" means any remuneration or reward whether by way of commission or otherwise, for soliciting or procuring insurance business (including business relating to the continuance, revewal or revival of policies of insurance);

(d) "net agricultural income", in relation to a person, means the total amount of agricultural income, from whatever source derived, of that person computed in accordance with the rules contained in Part--IV of the First Schedule ;

(e) "tax-free security" means any security of the Central Government issued or declared to be income-tax free, or any security of a State Government issued income-tax free, the income-tax whereon is payable by the State Government;

(f) all other words and expressions used in this section or in the First Schedule but not defined in this sub-section and defined in the Income-tax Act shall have the meanings respectively assigned to them in that Act.

CHAPTER III

DIRECT TAXES

Income-tax

Amendment of section 10.

3. In section 10 of the Income-tax Act,—

(a) after clause (5A), the following clause shall be inserted with effect from the 1st day of April, 1994, namely—

'(5B) in the case of an individual who renders services as a technician in the employment (commencing from a date after the 31st day of March, 1993) of the Government or of a local authority or of any corporation set up under any special law or of any such institution or body established in India for carrying on scientific research as is approved for the purposes of this clause or sub-clause (*viia*) of clause (6) by the prescribed authority or in any business carried on in India and the individual was not resident in India in any of the four financial years immediately preceding the financial year in which he arrived in India and the tax on his income for such services chargeable under the head "Salaries" is paid to the Central Government by the employer (which tax, in the case of an employer, being a company, may be paid notwithstanding anything contained in section 200 of the Companies Act, 1956), the tax so paid by the employer for a period not exceeding forty-eight months commencing from the date of his arrival in India : 1 of 1956

Provided that the Central Government may, if it considers it necessary or expedient in the public interest so to do, waive the condition relating to non-residence in India as specified in this clause in the case of any individual who is employed in India for designing, erection or commissioning of machinery or plant or supervising activities connected with such designing, erection or commissioning.

Explanation.—For the purposes of this clause, "technician" means a person having specialised knowledge and experience in—

(i) constructional or manufacturing operations, or in mining or in the generation of electricity or any other form of power, or

(ii) agriculture, animal husbandry, dairy farming, deep sea fishing or ship building, or

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(*iii*) such other field as the Central Government may, having regard to availability of Indians having specialised knowledge and experience therein, the needs of the country and other relevant circumstances, by notification in the Official Gazette, specify,

who is employed in India in a capacity in which such specialised knowledge and experience are actually utilised";

(*b*) in clause (6) ,—

(*i*) sub-clause (*vii*) shall be omitted ;

(*ii*) in sub-clause (*viia*), in item (*II*), after the figures, letters and words "31st day of March, 1988", the words, figures and letters "but before the 1st day of April, 1993" shall be inserted ;

(*c*) for clause (*10C*) [as substituted by section 4 of the Finance Act, 1992], the following clause shall be substituted, namely :— 18of1992

"(*10C*) any amount received by an employee of—

(*i*) a public sector company ; or

(*ii*) any other company; or

(*iii*) an authority established under a Central, State or Provincial Act; or

(*iv*) a local authority,

at the time of his voluntary retirement, in accordance with any scheme or schemes of voluntary retirement, to the extent such amount does not exceed five lakh rupees :

Provided that the schemes of the said companies or authorities, as the case may be, governing the payment of such amount are framed in accordance with such guidelines (including *inter alia* criteria of economic viability) as may be prescribed and such schemes in relation to companies referred to in sub-clause (*ii*) are approved by the Chief Commissioner or, as the case may be, Director-General in this behalf :

Provided further that where exemption has been allowed to an employee under this clause for any assessment year, no exemption thereunder shall be allowed to him in relation to any other assessment year;";

(*d*) in clause (15) ,—

(*i*) in sub-clause (*iv*), in item (*fa*), after the words "a scheduled bank", the words, brackets and figures "to a non-resident or to a person who is not ordinarily resident within the meaning of sub-section (*6*) of section 6" shall be inserted;

(*ii*) in sub-clause (*v*) for the words "Registrar, Supreme Court", the words "Welfare Commissioner, Bhopal Gas Victims, Bhopal", shall be substituted and shall be deemed to have been substituted with effect from the 2nd day of November, 1992 ;

(*e*) after clause (*23BBA*) the following clause shall be inserted with effect from the 1st day of April, 1994, namely :—

(*23BBB*) any income of the European Economic Community derived in India by way of interest, dividends or capital gains from investments made out of its funds under such scheme as the Central Government may, by notification in the Official Gazette, specify in this behalf .

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Explanation.—For the purposes of this clause, "Eurpean Economic Community" means the European Economic Community established by the Treaty of Rome of of 25th March, 1957 ;

(*f*) in clause (*23C*) after sub-clause (*iii*), the following sub-clause shall be inserted, namely :—

"(*iiia*) the National Foundation for Communal Harmony; or".

Amendment of section 10A.

4. In section 10A of the Income-tax Act, —

(*a*) in sub-section (*2*), for clause (*i*), the following clause shall be substituted with effect from the 1st day of April, 1994, namely :—

"(*i*) it has begun or begins to manufacture or produce articles or things during the previous year relevant to the assessment year—

(*a*) commencing on or after the 1st day of April, 1981, in any free trade zone; or

(*b*) commencing on or after the 1st day of April, 1994, in any electronic hardware technology park or, as the case may be, software technology park;";

(*b*) in sub-section (*4*), in clause (*iii*) after the word, figures and letter "section 80-I", the words, figures and letters "or section 80-IA" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1991 ;

(*c*) in the *Explanation* occurring at the end, after clause (*iii*), the following clauses shall be inserted with effect from the 1st day of April, 1994, namely :—

(*iv*) "electronic hardware technology park" means any park set up in accordance with the Electronic Hardware Technology Park (EHTP) Scheme notified by the Government of India in the Ministry of Commerce;

(*v*) "software technology park" means any part set up in accordance with the Software Technology Park Scheme notified by the Government of India in the Ministry of Commerce;

(*vi*) "produce", in relation to articles or things referred to in clause (*i*) of sub-section (2), includes production of computer programmes;".

Amendment of section 10B.

5. In section 10B of the Income-tax Act, in sub-section (*4*), in clause (*iii*), after the word, figures and letter "section 80-I", the words figures and letters "or section 80-IA" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1991.

Amendment of section 11.

6. In section 11 of the Income-tax Act, in sub-section (*2*), the following proviso shall be inserted at the end and shall be deemed alwayst o have been inserted, namely:-

"Provided that in computing the period of ten years referred to in clause (*a*), the period during which the income could not be applied for the purpose for which it is so accumulated or set apart, due to an order or injunction of any court, shall be excluded.".

Amendment of section 16.

7. In section 16 of the Income-tax Act, in clause (*i*), with effect from the 1st day, of April, 1994,—

(*a*) in the opening portion, for the words "twelve thousand rupees", the words "fifteen thousand rupees" shall be substituted ;

(*b*) in the proviso, for the words "twelve thousand rupees" and "fifteen thousand rupees", the words "fifteen thousand rupees" and "eighteen thousand rupees" shall respectively be substituted.

Amendment of section 17.

8. In section 17 of the Income-tax Act, in clause (2), in the proviso, in clause (*vi*),—

(*a*) in sub-clause (*2*), for the words "travel or stay", the words "travel and stay" shall be substituted ;

(*b*) for the portion beginning with the words "subject to the condition", and ending with the words "Reserve Bank of India in this behalf, prescribe", the following shall be substituted, namely :—

"subject to the condition that—

(*A*) the expenditure on medical treatment and stay abroad shall be excluded from perquisite only to the extent permitted by the Reserve Bank of India; and

(*B*) the expenditure on travel shall be excluded from perquisite only in the case of an employee whose gross total income, as computed before including therein the said expenditure, does not exceed two lakh rupees".

9. In section 35 of the Income-tax Act, after sub-section (*2A*), the following sub-section shall be inserted with effect from the 1st day of April, 1994, namely :—

Amendment of section 35.

'(*2AA*) Where the assessee pays any sum to a National Laboratory with a specific direction that the said sum shall be used for scientific research undertaken under a programme approved in this behalf by the prescribed authority, then—

(*a*) there shall be allowed a deduction of a sum equal to one and one-fourth times the sum so paid; and

(*b*) no deduction in respect of such sum shall be allowed under any other provision of this Act :

Provided that every National Laboratory desirous of obtaining approval under this sub-section shall make an application in the prescribed form and manner to the prescribed authority :

Provided further that the prescribed authority may, before granting approval, call for such documents or information from the National Laboratory as it thinks necessary in order to satisfy itself about the genuineness of the activities relating to scientific research of such Laboratory.

Explanation.—For the purposes of this sub-section, "National Laboratory" means a scientific laboratory functioning at the national level under the aegis of the Indian Council of Agricultural Research, the Indian Council of Medical Research or the Council of Scientific and Industrial Research and which is approved as a National Laboratory by the prescribed authority in such manner as may be prescribed.'.

10. In section 36 of the Income-tax Act, in sub-section (*1*), in clause (*viia*), in sub-clause, (*a*), for the words "two per cent.", the words "four per cent."shall be substituted with effect from the 1st day of April, 1994.

Amendment of section 36.

11. In section 44C of the Income-tax Act,—

Amendment of section 44C

(*a*) clause (*b*) shall be omitted ;

(*b*) in the *Explanation*, clause (*iii*) shall be omitted.

12. In section 80DD of the Income-tax Act, in sub-section (*1*), for the words "twelve thousand rupees", the words "fifteen thousand rupees" shall be substituted with effect from the 1st day of April, 1994.

Amendment of section 80DD.

13. In section 80G of the Income-tax Act,—

Amendment of section 80G.

(*1*) in sub--section (*1*), in clause (*i*),—

(*a*) after the words, brackets, figures and letters "or in sub-clause (*iiiab*)", the words, brackets, figures and letter "or in sub-clause (*iiie*) " shall be inserted;

(*b*) after the words, brackets, figures and letter "or in sub-clause (*iiie*) " [as inserted by sub-clause (*a*) of this clause], the words, brackets, figures and letter "or in sub-clause (*iiif*)" shall be inserted with effect from the 1st day of April, 1994 ;

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(*2*) in sub-section (*2*), in clause (*a*),—

(*a*) after sub-clause (*iiid*), the following sub-clause shall be inserted, namely:—

"(*iiie*) the National Foundation for Communal Harmony; or";

(*b*) after sub-clause (*iiie*) [as inserted by sub-clause (*a*) of this clause], the following sub-clause shall be inserted with effect from the 1st day of April, 1994, namely :—

"(*iiif*) a University or any educational institution of national eminence as may be approved by the prescribed authority in this behalf; or" ;

(*3*) in sub-section (5), in clause (*vi*), in the proviso, for the words "three assessment years", the words "five assessment years" shall be substituted.

Amendment of section 80HHE.

14. In section 80HHE of the Income-tax Act, in sub-section (*1*), in the proviso, for the figures "1994", the figures "1995" shall be substituted.

Amendment of section 80-IA.

15. In section 80--IA of the Income-tax Act, with effect from the 1st day of April, 1994,—

(*1*) in sub--section (2), for clause (*iv*), the following clause shall be substituted, namely :—

"(*iv*) (*a*) in the case of an industrial undertaking not specified in sub-clause (*b*), it begins to manufacture or produce articles or things or to operate such plant or plants, at any time during the period beginning on the 1st day of April, 1991 and ending on the 31st day of March, 1995, or such further period as the Central Government may, by notification in the Official Gazette, specify with reference to any particular industrial undertaking ;

(*b*) in the case of an industrial undertaking located in an industrially backward State specified in the Eighth Schedule or set up in any part of India for the generation, or generation and distribution, of power, it begins to manufacture or produce articles or things or to operate its cold storage plant or plants or to generate power at any time during the period beginning on the 1st day of April, 1993 and ending on the 31st day of March, 1998;";

(2) in sub-section (5), for clause (*i*), the following clause shall be substituted, namely :—

'(*i*) (*a*) in the case of an industrial undertaking referred to in sub-clause (a) of clause (*iv*) of sub-section (*2*), twenty-five per cent. of the profits and gains derived from such industrial undertakings;

(*b*) in the case of an industrial undertaking referred to in sub-clause (*b*) of clause (*iv*) of sub- section (*2*), hundred per cent. of the profits and gains derived from such industrial undertaking for the initial five assessment years and thereafter twenty-five per cent. of the profits and gains derived from such industrial undertaking :

Provided that where the assessee is a company, the provisions of this clause shall have effect as if for the words "twenty-five per cent.", the words "thirty per cent." had been substituted;'.

Amendment of section 80L.

16. In section 80L of the Income-tax Act, in sub-section (*1*), in clauses (*1*) and (*2*), for the words "seven thousand", the words "ten thousand" shall be substituted with effect from the 1st day of April, 1994.

Amendment of section 80M.

17. In section 80M of the Income-tax Act, in sub-section (*1*), the following proviso shall be inserted at the end, with effect from the 1st day of April, 1994, namely :-

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"Provided that where any domestic company receives any income by way of dividend from the units of the Unit Trust of India established under the Unit Trust of India Act, 1963, such domestic company shall, subject to the aforesaid provisions, be eligible for deduction to the extent of—

(*a*) four-fifth of such income in respect of the previous year relevant to the assessment year commencing on the 1st day of April, 1994 ;

(*b*) two-fifth of such income in respect of the previous year relevant to the assessment year commencing on the 1st day of April, 1995,

and no deduction shall be allowed on such income in respect of the previous year relevant to the assessment year commencing on the 1st day of April, 1996 and any subsequent previous year.".

Amendment of section 80P.

18. In section 80P of the Income-tax Act, in sub-section (3),—

(*a*) after the words, figures and letter "or section 80-I", the words, figures and letters "or section 80-I-A" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1991 ;

(*b*) after the word, figures and letter "section 80-I", the word, figures and letters "section 80--IA," shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1991.

Insertion of new section 80V.

19. After section 80U of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 1994, namely :—

Deduction from gross total income of the parent in certain cases.

"80V. Where a minor child, whose income is included in the total income of one of his parents under sub-section (*1A*) of section 64, is suffering from any disability of the nature specified in section 80U, then, in computing he total income of such parent, there shall be allowed from the gross total income of such parent a deduction of a sum to which such minor child would have been entitled under section 80U had the total income of such minor child been computed separetely.";

Amendment of section 38B.

20. In section 88B of the Income-tax Act, with effect from the 1st day of April, 1994,—

(*a*) for the words "fifty thousand rupees", the words "seventy-five thousand rupees" shall be substituted ;

(*b*) for the words "tenper cent.". the words "twenty per cent." shall be substituted.

Insertion of new section 115AD. Tax on income of Foreign Institutional Invetors from securities or capital gains arising from their transfer.

21. After section 115AC of the Income-tax Act, the following section shall be inserted, namely:—

'115AD. (*1*) Where the total income of a Foreign Institutional Investor includes—

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(*a*) income received in respect of securities (other than units referred to in section 115AB) listed in a recognised stock exchange in India in accordance with the provisions of the Securities Contracts (Regulation) Act, 1956, and any rules made thereunder; or

(*b*) income by way of short-term or long-term capital gains arising from the transfer of such securities.

the income-tax payable shall be the aggregate of—

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(i) the amount of income-tax calculated on the income in respect of securities referred to in clause (a), if any, included in the total income, at the rate of twenty per cent.;

(ii) the amount of income-tax calcuated on the income by way of short-term Capital gains referred to in clause (b), if any, included in the total income, at the rate of thirty-per cent;

(iii) the amount of income-tax calculated on the income by way of long-term capital gains referred to in caluse (b), if any, included in the total income at the rate of ten per cent.; and

(iv) the amount of income-tax with which the Foreign Institutional Investor would have been chargeable had its total income been reduced by the amount of income referred to in clause (a) and clause (b).

(2) Where the gross total income of the Foreign Institutional Investor—

(a) consists only of income in respect of securities referred to in clause (a) of sub-section (1), no deduction shall be allowed to it under sections 28 to 44C or clause (i) or clause (iii) of section 57 or under Chapter VI-A.;

(b) includes any income referred to in clause (a) or clause (b) of sub-section (1), the gross total income shall be reduced by the amount of such income and the deduction under Chapter VI-A shall be allowed as if the gross total income as so reduced, were the gross total income of the Foreign Institutional Investor.

(3) Nothing contained in the first and second provisos to section 48 shall apply for the computation of capital gains arising out of the transfer of securities referred to in clause (b) of sub-section (1).

Explanation.—For the purposes of this section,—

(a) the expression "Foreign Institutional Investor" means such investor as the Central Government may, by notifictaion in the Official Gazette, specify in this behalf;

(b) the expression "securities" shall have the meaning assigned to it in clause (h), of section 2 of the Securities Contracts (Regulation) Act, 1956.'. 42 of 1956.

Amendment of section 115K.

22. In section 115K of the Income-tax Act,—

(a) in sub-section (1),—

(i) in clause (a), for the words, brackets and figure "equal to seven per cent. of the amount specified in sub-section (5)", the words "of thirty-seven thousand rupees" shall be substituted with effect from the 1st day of April, 1994;

(ii) in clause (b),—

(A) after the words "eating place", the words "or of operating, hiring or leasing a goods carriage', a motor cab, a maxicab or a three-wheeled motor vehicle" shall be inserted;

(B) for the words "thirty-five" the words "thirty-seven" shall be substiuted with effect from the 1st day of April, 1994;

(b) in sub-section (2),—

(i) in clause (b),—

(A) in sub-clause (i), for the words "thirty-five", the words "thirty-seven" shall be substituted with effect from the 1st day of April, 1994.

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(*B*) in sub-clause (*ii*),—

(*1*) after the words "eating place", the words "or from the business of operating, hiring or leasing a goods carriage, a motor cab, a maxicab or a three-wheeled motor vehicle" shall be inserted;

(*2*) forthe words "thirty-five", the words "thirty-seven" shall be substituted with effect from the 1st day of April, 1994;

(*ii*) in clause (*c*), after the words "eating place", the words "or from the business of operating, hiring or leasing a goods carriage, a motor cab, a maxicab or a three-wheeled motor vehicle" shall be inserted;

(*c*) in sub-section (*4*),—

(*i*) in clause (*a*),—

(*A*) for the words "thirty-five", at both the places where they occur, the words "thirty-seven" shall be substituted with effect from the 1st day of April, 1994;

(*B*) after the words "eating place" the words "or of operating, hiring or leasing a goods carriage, a motor cab, a maxicab or a three- wheeled motor vehicle" shall be inserted;

(*ii*) in clause (*b*), the following proviso shall be inserted at the end, namely:—

"Provided that where such person is carrying on the business of operating, hiring or leasing a goods carriage, a motor cab, a maxicab or a three-wheeled motor vehicle, the statement in relation to the previous year relevant to the assessment year commencing on the 1st day of April, 1993, shall be submitted by him on or before the 30th day of June, 1993.";

(*d*) sub-section (*5*) shall be omitted with effect from the 1st day of April, 1994;

(*e*) for the existing *Explanation*, the following *Explanation* shall be substituted, namely :—

'*Explanaion.*—For the purposes of this section,—

(*a*) the expressions "goods carriage", "motor cab", "maxicab" and "motor vehicle" shall have the meanings respectively assigned to them in section 2 of the Motor Vehicles Act, 1988; 59 of 1988.

(*b*) "vocation" includes tailoring, hair-cutting, clothes' washing, typing, photo-copying, repair work of anp kind and other services of a similar nature.'.

Amendment of section 115N.

23. In section 115N of the Income-tax Act, for the words "retail trade or eating place or vocation", the words "the business of retail trade or from the business of running an easting place or from the business of operating, hiring or leasing a goods carriage, a motor cab, a maxicab or a three-wheeled motor vehilce or from any vocation" shall be substituted.

Amendment of section 143.

24. In section 143 of the Income-tax Act, in sub-section (*1A*),—

(*i*) for clause (*a*), the following clause shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1989, namely:—

"(*a*) Where as a result of the adjustments made under the frist proviso to clause (*a*) of sub-section (*1*),–

(*i*) the income declared by any person in the return is increased; or

(*ii*) the loss declared by such person in the return is reduced or is converted into income,

the Assessing Officer shall,—

(*A*) in a case where the incrrease in income under sub-clause (*i*) of this clause has increased the total income of such person, further increase the amount of tax payable under sub-section (*1*) by an additional income-tax calculated at the rate of twenty per cent. on the difference between the tax on the total income so increased and the tax that would have been chargeable had such total income been reduced by the amount of adjustments and specify the additional income-tax in the intimation to be sent under sub-clause (*i*) of clause (*a*) of sub-section (*1*);

(*B*) in a case where the loss so declared is reduced under sub-clause (*ii*) of this clause or the aforesaid ajdustments have the effect of converting that loss into income, calculate a sum (hereinafter referred to as additional income tax) equal to twenty per cent. of the tax that would have been chargeable on the amount of the adjustments as if it had been the total income of such person and specify the additional income-tax so calculated in the intimation to be sent under sub-clause (*i*) of clause (*a*) of sub-section (*1*);

(*C*) where any refund is due under sub-section (*1*), reduce the amount of such refund by an amount equivalent to the additional income-tax calculated under sub-clause (*A*) or sub-clause (*B*), as the case may be.";

(*ii*) the *Explanation* shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 1989.

Amendment of section 194.

25. In section 194 of the Income-tax Act, the second proviso shall be omitted with effect from the 1st day of June, 1993.

Amendment of section 196B.

26. In section 196B of the Income-Tax Act, in the opening portion, for the words, figures and letters "Where any income is payable in respect of units referred to in section 115AB to an Offshore Fund", the following shall be substituted with effect from the 1st day of June, 1993, namely:—

"Where any income in respect of units referred to in section 115AB or by way of long-term capital gains arising from the transfer of such units is payable to an Offshore Fund".

Amendment of section 196C.

27. In section 196C of the Income-tax Act, in the opening portion, for the words, figures and letters "Where any income by way of interest or dividends is payable in respect of bonds or shares referred to in section 115AC to a non-resident", the following shall be substituted with effect from the 1st day of June, 1993, namely:—

"Where any income by way of interest or dividends in respect of bonds or shares referred to in section 115AC or by way of long-term capital gains arising from the transfer of such bonds or shares is payable to a non-resident".

Insertion of new section 196D.

28. After section 196C of the Income-tax Act, the following section shall be inserted with effect from the 1st day of June, 1993, namely:—

Income of Foreign Institutional Investors from securities.

"196D. (*1*) Where any income in respect of securities referred to in clause (*a*) of sub-section (*1*) of section 115AD is payable to a Foreign institutional Investor, the person responsible for making the payment shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of twenty per cent.

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(2) No deduction of tax shall be made from any income, by way of capital gains arising from the transfer of securties referred to in section 115AD, payable to a Foreign Institutional Investor.".

Amendment of section 197.

29. In section 197 of the Income-tax Act, in sub-section (*1*), after the figures "193," the figures "194," shall be inserted with effect from the 1st day of June, 1993.

Amendment of sections 198 to 200, 202 to 203A. and 205.

30. In sections 198, 199, 200, 202, 203, 203A and 205 of the Income-tax Act, for the words, figures and letter "and section 196C", the words, figures and letters "section 196C" and section 196D" shall be substituted with effect from the 1st day of June, 1993.

Insertion of new Chapter XIX-B.

31. After Chapter XIX-A of the Income-tax Act, the following Chapter shall be inserted with effect from the 1st day of June, 1993, namely:—

CHAPTER XIX-B

ADVANCE RULINGS

Definitions.

245N. In this Chapter, unless the context otherwise requires,–

(*a*) "advance ruling" means the determination, by the Authority, of a question of law or fact specified in the application in relation to a transaction which has been undertaken, or is proposed to be under taken by the applicant;

(*b*) "applicant", means a non-resident making an application;

(*c*) "application" means an application made to the Authority under sub-section (*1*) of section 245Q;

(d) "Authority" means the Authority for Advance Rulings constituted under section 245-O;

(e) "Chairman" means the Chairman of the Authority

(*f*) "Member" means a Member of the Authority and includes the Chairmzn,

Authority for Advance Rulings.

245-O. (*1*) The Central Government shall constitute an Auhtority for giving advance rulings, to be known as "Authority for Advance Rulings".

(*2*) The Authority shall consist of the following Members appointed by the Central Government, namely:—

(*a*) a Chairman, who is a retired Judge of the Supreme Court;

(*b*) an officer of the Indian Revenue Service who is qualified to be a member of the Central Board of Direct Taxes;

(*c*) an officer of the the Indian Legal Service who is, or is qualified to be, an Additional Secretary to the Government of India.

(3) The salaries and allowances payable to and the terms and conditions of service of, the Members shall be such as may be prescribed.

(*4*) The Central Government shall provide the Auhtority with such officers and staff as may be necessary for the efficient exercise of the powers of the Authority under this Act.

(5) The office of the Authority shall be located in Delhi.

Vacancies etc. not to invalidate proceedings.

245P. No proceeding before, or pronouncement of advance ruling by, the Authority shall be questioned or shall be invalid on the ground merely of the existence of any vacancy or defect in the constitution of the Authority.

Application for advance ruling.

245Q. (*1*) An applicant desiorous of obtaining an advance ruling under this Chapter may make an application in such form and in such manner as may be prescribed, stating the question on which the advance ruling is sought.

(*2*) The application shall be made in quadruplicate and be accompanied by a fee of two thousand five hundred rupees.

(*3*) An applicant may withdraw an application within thirty days from the date of the application.

Procedure on receipt of application

245 R. (*1*) On receipt of an application, the Authority shall cause a copy thereof to be forwarded to the Commissioner and, if necessary, call upon him to furnish the relevant records :

Provided that where any records have been called for by the Authority in any case, such records shall, as soon as possible, be returned to the Commissioner.

(*2*) The Authority may, after examining the application and the records called for, by order, either allow or reject the application :

Provided that the Authirty shall not allow the application where the question raised in the applcation.—

(*a*) is already pending in the eapplicationt's case before any income-tax authority, the Appellate Tribunal or any court ;

(*b*) involves determination of fair market value of any property ;

(*c*) relates to a transaction which is designed *prima facie* for the avoidance of income-tax :

Provided further that no application shall be rejected under this sub-section unless an opportunity has been given to the applicant of being heard :

Provided also that where the application is rejected, reasons for such rejection shall be given in the order.

(*3*) A copy of every order made under sub-section (*2*) shall be sent to the applicant and to the Commissioner.

(*4*) Where an application is allowed under sub-section (*2*), the Authority shall, after examining such further material as may be placed before it by the applicant or obtained by the Authority, prorounce its advance ruling on the question specified in the application.

(*5*) On a request received from the applicant, the Authority shall, before pronouncing its advance ruling, provide an opportunity to the applisant of being heard, either in pereson or through a duly authorised representative.

Explanaion.—For the purposes of this sub-section, "authorised representative" shall have the meaning assigned to it in sub-section (*2*) of section 288, as if the applicant were an assessee.

(*6*) The Authority shall pronounce its advance ruling in writing within six months of the receipt of application.

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(7) A copy of the advance ruling pronounced by the Authority duly singed by the Members and certified in the prescribed manner shall be sent to the applicant and to the Commissioner, as soon as may be, after such pronouncement.

245 S. (1) The advance ruling pronounced by the Authority under section 245R shall be binding only— Applicability of advance ruling.

(a) on the applicant who had sought it;

(b) in respect of the tansaction in relation to which the ruling had been sought and

(c) on the Commissioner, and the income-tax authorities subordinate to him, in respect of the applicant and the said transation.

(2) The advance ruling referred to in sub-section (1) shall be binding as aforesid unless there is a change in law or facts on the basis of which the advance ruling has been pronounced.

245T, (1) Where the Authority finds, on representation made to it by the Commissioner or otherwise, that an advance ruling pronounced by it under sub-secton (6) of section 245R has been obtained by the applicant by fraud or misrepresentation of facts, it may, by order, declare such ruling to be void *ab ini tio* and thereupon all the provisions of this Act shall apply (after excluding the period beginning with the date of such advance ruling and ending with the date of order under this sub-section) to the applicant as if such advance ruling had never been made. Advance ruling to be void in certain circumstances.

(2) A copy of the order made under sub-section (1) shall be sent to the applicant and the Commissioner.

245U. (1) The Authority shall, for the purpose of exercising its powers, have all the powers of a civil court under the code of Civil Procedure, 1908 as are referred to in section 131 of this Act. Powers of the Authority. 5 of 1908.

(2) The Authority shall be deemed to be a civil court for the purposes of section 195, but not for the purposes of Chapter XXVI, of the Code of Criminal Procedure, 1973 and every proceeding before the Authority shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196, of the Indian Penal Code. 2 of 1974. 45 of 1860.

245V. The Authority shall, subject to the provisions of this Chapter, have power to regulate its own procedure in all matters arising out of the exercise of its powers under this Act.'. Procedure of Authority.

32. In section 253 of the Income tax Act, for sub-section (6), the following sub-section shall be substituted and shall be deemed to have been substituted with effect, from the 1st day of June, 1992, namely:— Amendment of section 253.

"(6) An appeal to the Appellate Tribunal shall be in the prescribed form and shall be verified in the prescribed manner and shall, in the case of an appeal made on or after the 1st day of June, 1992, irrespective of the date of initiation of the assessment proceedings relating thereto, be accompanied by a fee of,—

(a) where the total income of the assessee as computed by the Assessing Officer in the case to which the appeal relates is one lakh rupees or less, two hundred and fifty rupees;

(b) where the total income of the assessee computed as aforesaid in the case to which the appeal relates is more than one lakh rupees, one thousand and five hundred rupees:

Provided that no such fee shall be payable in the case of an appeal referred to in sub-section (2) or a memorandum of cross-objections referred to in sub-section (4).".

Amendment of section 269 UC.

33. In section 269UC of the Income-tax Act, in sub-section (*1*), for the words "three months", words "four months" shall be substituted with effect from the 1st lay of June, 1993.

Amendment of section 269 UD.

34. In section 269UD of the Income-tax Act,—

(*1*) in sub-section (*1*),—

(*a*) in the opening portion, for the words "The appropriate authority", the words, brackets, figures and letters "Subject to the provisions of sub-sections (*1A*) and (*1B*), the apporiate authority" shall be substituted and shall be deemed to have been substituted with effect from the 17th day of November, 1992;

(*b*) the words "and for reasons to be recorded in writing", shall be omitted and shall be deemed to have been omitted with effect from the 17th day of November, 1992;

(*c*) after the first proviso, the following proviso shall be inserted with effect from the 1st day of June, 1993, namely:—

'Provided further that where the statement referred to in section 269UC in respect of any immovable property is received by the approrriate authority on or after the 1st day of June, 1993, the provisions of the first proviso shall have effect as if for the words "two months", the words "three months" had been substituted:':

(*d*) in the existing second proviso,—

(*i*) for the words "Provided further", the words "Provided also" shall be substituted with effect from the 1st day of June, 1993;

(*ii*) for the words "proceeding proviso", the words "the first and second provisos" shall be substituted with effect from the 1st day of June, 1993;

(*e*) the following proviso shall be inserted at the end with effect from the 1st day of June, 1993, namely:—

"Provided also that the period of limitation referred to in the second proviso shall be reckoned, where any stay has been granted by any court against the passing of an order for the purchase of the immovable property under this Chapter, with reference to the date of vacation of the said stay.";

(*2*) after sub-section (*1*), the following sub-sections shall be inserted and shall be deemed to have been inserted with effect from the 17th day of November, 1992, namely:—

"(*1A*) Before making an order under sub-section (*1*), the appropriate authority shall give a reasonable opportunity of being heard to the transferor, the person in occupation of the immovable property if the transferor is not in occupation of the property, the transferee and to every other person whom the appropriate authority knows to be interested in the property.

(*1B*) Every order made by the approrpiate authority under sub-section (*1*) shall specify the grounds on whcih it is made.".

Amendment of section 269 UE.

35. In section 269UE of the Income-tax Act,—

(*a*) in sub-section (*1*),—

(*i*) for the words "free from all encumbrances", the words, brackets, figures and letters "in terms of the agreement for transfer referred to in sub-section (*1*) of section 269UC" shall be substituted and shall be deemed to have been substituted with effect from the 17th day of November, 1992;

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(*ii*) the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 17th day of November, 1992, namely:—

"Provided that where the apprerpiate auhtority, after giving an opportunity of being heard to the transferor, the transferee or other persons interested in the said property, under sub-section (*1A*) of section 269UD, is of the opinion that any encumbrance on the property or leasehold interest specified in the aforesaid agreement for transfer is so specified with a view to defeat the provisions of this Chapter, it may, by order, declare such encumbrance or leasehold interest to be void and thereupon the aforesaid property shall vest in the Central Government free from such encumbrance or leasehold interest.";

(*b*) in sub-section (*2*) the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 17th day of November, 1992, namely:—

"Provided that the provisions of this sub-section and sub-sections (*3*) and (*4*) shall not apply where the person in possession of the immovable property, in respect of which an order under sub-section (*1*) of section 269UD is made, is a *bona fide* holder of any encumbrance on such property or a *bona fide* lessee of such property, if the said encumbrance or lease has not been declared void under the proviso to sub-section (*1*) and such person is eligible to continue in possession of such property even after the transfer in terms of the aforesaid agreement for transfer.".

Amendment of section 273 A.

36. In section 273A of the Income-tax Act, with effect from the 1st day of June, 1993,—

(*a*) in sub-section (*1*), the words "Chief Commissioner or" shall be omitted;

(*b*) in sub-section (*2*), for the words "the Chief Commissioner or Commisioner except with the previous approval of the Board", the words "the Commissioner except with the previous approval of the Chief Commissioner or Director-General, as the case may be" shall be substituted;

(*c*) in sub-section (4),—

(*i*) the words "Chief Commissioner or" shall be omitted;

(*ii*) in the proviso, for the words "the Chief Commissioner or Commissioner except with the previous approval of the Board", the words "the Commissioner except with the previous approval of the Chief Commissioner or Director-General, as the case may be" shall be substituted.

Insertion of Eighth Schedule.

37. After the Seventh Schedule to the Income-tax Act, the following Schedule shall be inserted with effect from the 1st day of April, 1994, namely:—

"THE EIGHTH SCHEDULE

[*See* section 80-IA(*2*)(*iv*)(*b*)]

LIST OF INDUSTRIALLY BACKWARD STATES AND UNION TERRITORIES

(1) Arunachal Pradesh
(2) Assam
(3) Goa
(4) Himachal Pradesh
(5) Jammu and Kashmir
(6) Manipur
(7) Meghalaya
(8) Mizoram
(9) Nagaland
(10) Sikkim
(11) Tripura
(12) Andaman and Nicobar Islands
(13) Dadra and Nagar Haveli
(14) Daman and Diu
(15) Lakshadweep
(16) Pondicherry.".

Weath-tax

Amendment of section. 2.

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38. In section 2 of the Wealth-tax Act, 1957 (hereinafter referred to as the Wealth-tax Act), in clause (*ea*) in the *Explanation,* in clause (*b*), the words "or any land held by the assessee as stock-in-trade for a period of three years from the date of its acquisition by him" shall be inserted at the end with effect from the 1st day of April, 1994.

Amendment of section. 5.

39. In section 5 of the Wealch-tax Act, in sub-section (*1*), after clause (*v*), the follwoing clause shall be inserted with effect from the 1st day of April, 1994, namely:—

"(*vi*) one house or part of a house belonging to an individual or a Hindu undivided family;".

Amendment of section 18B.

40. In section 18B of the Wealth-tax Act, with effect from the 1st day of June, 1993,—

(*a*) in sub-section (*1*), the words "Chief Commissioner or" shall be omitted;

(*b*) in sub-section (*2*), for the words "the Chief Commissioner or Commissioner, except with the previous approval of the Board", the words "the Commissioner except with the previous approval of the Chief Commissioner of Director-General as the case may be" shall be substituted;

(*c*) in sub-section (**4**), the words "Chief Commissioner or" shall be omitted.

Gift-tax

Amendment of section 5.

18 of 19[illegible]

41. In section 5 of the Gift-tax Act, 1958 (hereinafter referred to as the Gift-tax Act),—

(*a*) in sub-section (*1*),—

(*i*) after clause (*iid*), the following clause shall be inserted, namely:—

'(*iie*) being an individual who is a non-resident Indian, once out of the moneys standing to his credit in an account opened and operated in accordance with the Non-resident (Non-repatriable) Rupee Deposit Scheme, 1992.

Explanation.— for the purposes of this clause, "non-resident Indian" shall have the meaning assigned to it in clause (e) of section 115C of the Income-tax Act;';

(*ii*) in clause (*vii*), for the words "ten thousand", the words "thirty thousand" shall be substituted with effect from the 1st day of April, 1994;

(*b*) in sub-section (*2*), for the words "twenty thousand", the words "thirty thousand" shall be substituted with effect from the 1st day of April, 1994.

Amendment of Schedule II.

42. In schedule II to the Gift-tax Act, —

(*a*) in the opening portion, occurring after the heading "RULES FOR DETERMINING THE VALUE OF PROPERTY GIFTED,"—

(*i*) for the words "The value of any property", the figures and words "1. Subject to the provisions of rules 2 to 7, the value of any property" shall be substituted;

(*ii*) for the words "the Wealth-tax Act", the words, figures and brackets "the Wealth-tax Act, 1957 (hereinafter referred to as the Wealth-tax Act)" shall be substituted;

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(*b*) after rule 1 as so numbered, the following rules shall be inserted, namely :—

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Quoted shares and debentures of companies.

2. The value of an equity share or a preference share in any company or a debenture of any company which is a quoted share or a quoted debenture shall be taken as the value quoted in respect of such share or debenture on the date on which the gift was made or where there is no such quotation on such date, the quotation on the date closest to such date and immediately preceding such date.

Explanation. The words and expressions used in this rule and rules 3 to 7 but not defined and defined in rule 2 of Schedule III to the Wealth-tax Act shall have the meanings respectively assigned to them in rule 2 of that Schedule.

Special provision for quoted shares of companies.

3. Notwithstanding anything in rule 2, the value of an equity share in any company which is a quoted share may, at the option of the assessee or a company, be taken on the basis of the average of the value quoted on the 31st day of March immediately preceding the assessment year and the values quoted in respect of such share on the said dates in relation to each of the immediately preceding nine assessment years, or where there is no such quotation on any of the aforesaid dates, the quotation on the date closest to the said date and immediately preceding such date ;

Provided that where for any reason the value of such share is quoted in relation to lesser number of assessment years than the said nine assessment years, than the value or values so quoted shall be taken in to account for the purposes of the aforesaid average ;

Provided further that where the assessee opts for the average of the values so quoted, he shall get such values certified by an accountant and attach the certificate to the return of gifts in respect of the relevant assessment year.

Explandtion—For the purposes of this rule, "accountant" shall have the same meaning as in the *Explanation* below sub-section (2) of section 288 of the Income tax Act.

Unquoted preference shares.

4. (1) Subject to the provisions of sub-rule (2), the value of an unquoted preference share in any company shall,—

(*a*) where the preference share is issued before the date on which the gift was made at a rate of dividend of not less than eight per cent, be the paid up value of such share; and

(*b*) where the preference share is issued before the said date at a rate of dividend of less than eight per cent, be the adjusted paid-up value of such share.

(2) Where no dividend has been paid in respect of an unquoted preference share by any company continuously for not less than three accounting years ending on the date on which the gift was made or, in a case where the accounting year of the company does not end on that date, for not less than three continuous accounting years ending on a date immediately before the date on which the gift was made, the paid-up value or, as the case may be, the adjusted paid-up value shall be reduced—

(*a*) in the case of a non-cumulative preference share, as indicated in the Table below :—

TABLE

Number of accounting years ending on the date on which the gift was made or, in a case where the accounting year does not end on that date, the number of accounting years ending on a date immediately preceding the date on which the gift was made, for which no dividend has been paid.	Rate of reduction.	
(1)	(2)	
Three years	10%	of the paid-up value or the adjusted paid-up value, as the case may be;
Four years	20%	
Five years	30%	
Six years and above.	40%	

(*b*) in the case of cumulative preference share, by one-half of the rates specified in the aforesaid Table.

Explanation.—For the purposes of this rule, "adjusted paid-up value", in relation to a preference share, means an amount which bears to the paid-up value of the preference share the same proportion as the stipulated rate of dividend [being the rate of dividend on the preference share specified in the terms of issue of such share, and in a case where such dividend is required to be increased under the provisions of section 3 of the Preference Shares (Regulation of Dividends) Act, 1960, the rate of dividend as so increased] on such share bears to the rate of eight per cent. 63 of 196

Unquoted equity shares in companies other than investment companies.

5 . (1) The value of an unquoted equity share in any company, other than an investment company, shall be determined in the manner set out in sub-rule (2).

(2) The value of all the the liabilities as shown in the balance sheet of such company shall be deducted from the value of all its assets shown in that balance sheet; the net amount so arrived at shall be divided by the total amount of its paid up equity share capital as shown in the balance sheet; the result multiplied by the paid-up value of each equity share shall be the break-up value of each unquoted equity share, and an amount equal to eighty per cent of the break-up value so determined shall be the value of the unquoted equity share for the purposes of this Act.

(3) For the purposes of sub-rule (2),—

(*a*) the following amounts shown as assets in the balance sheet shall not be treated as assets, namely :—

(*i*) any amount paid as advance tax under the Income-tax Act ;

(*ii*) any amount shown in the balance sheet including the debit balance of the profit and loss account or the profit and loss appropriation account which does not represent the value of any asset ;

(*b*) the following amounts shown as liabilities in the balance sheet shall not be treated as liabilities, namely :—

(*i*) the paid-up capital in respect of equity shares ;

(*ii*) the amount set apart for payment of dividends on preference shares and equity shares where such dividends have not been declared before the date on which the gift was made at a general body meeting of the company ;

(*iii*) reserves, by whatever name called, other than those set apart towards depreciation ;

(*iv*) credit balance of the profit and loss account ;

(*v*) any amount representing provision for taxation, other than the amount referred to in sub-clause (*i*) of clause (*a*), to the extent of the excess over the tax payable with reference to the book profits in accordance with the law applicable thereto ;

(*vi*) any amount representing contingent liabilities other than arrears of dividends payable in respect of cumulative preference shares.

Explanation.—For the purposes of this rule, "balance sheet", in relation to any company, means the balance sheet of such company (including the Notes annexed thereto and forming part of the accounts) as drawn up on the date on which the gift was made and, where there is no such balance sheet, the balance sheet drawn up on a date immediately preceding that date, and, in the absence of both, the balance sheet drawn up on a date immediately after the date on which the gift was made.

Unquoted equity shares in investment companies.

6 (1) Subject to rule 7, the value of an unquoted equity share in an investment company shall be determined in the manner specified in sub-rule (2).

(2) The value of all the liabilities as shown in the balance sheet of such company shall be deducted from the value of all its assets shown in that balance sheet; the net amount so arrived at shall be divided by the total paid-up equity share capital of the company as shown in the balance sheet, and the result multiplied by the paid-up value of each equity share shall be the value of the unquoted equity share in that investment company for the purposes of this Act.

(3) For the purposes of sub-rule (2), the value of an asset disclosed in the balance sheet of the company shall be taken to be its value determined in accordance with the rules as applicable to that particular asset and, in the absence of any such rule, the value of such asset shall be its value as determined under rule 20 of Schedule III to the Wealth-tax Act.

(4) For the purposes of this rule,—

(*a*) "balance sheet" has the same meaning as in rule 5 ;

(*b*) the amounts referred to in sub-rule (3) of rule 5 shall not be treated as assets or liabilities.

(5) For the purpose of facilitating the valuation of unquoted equity shares under this rule and rule 7, the company concerned shall have such valuation made by its auditors appointed under section 224 of the Companies Act, 1956, and a certificate of the auditors relating to such valuation in the prescribed form shall furnished to the Assessing Officer and the shareholders of the company; and the valuation made by the auditors shall be taken into account in the assessment of the shareholders of the company.

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Unquoted equity shares in interlocked companies.

7. (1) The value of an a unquoted equity share in one of the two interlocked companies held by the other interlocked company for the purposes of rule 6 shall be equal to the paid-up value of such share or the value determined under sub-rule (2), whichever is higher.

(2) For the purpose of sub-rule (1) the aggregate value of all the equity sharse in an interlocked company shall be arrived at by multiplying the maintainable profits of such company by—

(*a*) the fraction 100/8.5 in a case where the gross total income of the company consists, to the extent of not less than 51 per cent. of income chargeable under the head "Income from house property" under the Income-tax Act; or

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(*b*) the fraction 100/10, in the case of any other interlocked company;

and the resultant amount divided by the number of such equity shares shall be the value of such an equity share in such company.

(3) The maintainable profits of the company, for the purpose of sub-rule (2), shall be computed in the following manner, namely:—

(*a*) the book profits of the company for the five accounting years of the company immediately preceding the date on which the gift was made shall first be ascertained;

(*b*) adjustments shall be made to the book profits for each of the said five years for all non-recurring and extraordinary items of income and expenditure and losses;

(*c*) adjustments shall be made to the book profits for expenditure which is not of a revenue nature but is debited in the accounts and for receipts which are in the nature of revenue receipts but are not accounted for in the profit and loss account;

(*d*) any development rebate or investment allowance debited in the books of account shall be added back to the book profits;

(*e*) the tax liability of the company on the book profits, arrived at after the adjustments at items (*a*), (*b*), (*c*) and (*d*), shall be deducted from such book profits.

(*f*) amounts required for paying dividends on preference share or shares with prior rights shall be deducted from such book profits;

(*g*) the aggregate of the book profits for the five accounting years so arrived at, divided by 5, shall be the maintainable profits of the company.

Explanation.—For the purposes of this rule, "interlocked companies" means any two investment companies each of which holds share in the other company."

CHAPTER IV

INDIRECT TAXES

Customs

Amendment of Act 52 of 1962.

43. In the Customs Act, 1962,—

(*1*) in section 129A,—

(*a*) in sub-section (*1*), in the second proviso, for the words "ten thousand rupees", the words "fifty thousand rupees" shall be substituted;

(*b*) for sub-section (*6*), the following sub-section shall be substituted, namely:—

"(6) An appeal to the Appellate Tribunal shall be in such form and shall be verified in such manner as may be specified by rules made in this behalf and shall, in the case of an appeal made on or after the 1st day of June, 1993, irrespective of the date of demand of duty and interest or of levy of penalty in relation to which the appeal is made be accompanied by a fee of,—

(*a*) where the amount of duty and interest demanded and penalty levied by any officer of customs in the case to which the appeal relates is one lakh rupees or less, two hundred rupees;

(*b*) where the amount of duty and interest demanded and penalty levied by any officer of customs in the case to which the appeal relates is more than one lakh rupees, one thousand rupees:

Provided that no such fee shall be payable in the case of an appeal referred to in sub-section (4) or a memorandum of cross-objections referred to in sub-section (*4*).";

(2) in section 129C, in sub-section (*4*), for the words "fifty thousand rupees" the words "one lakh rupees" shall be substituted.

44. The Customs Tariff Act, 1975 (hereinafter referred to as the Customs Tariff Act) shall be amended in the manner specified in the Second Schedule.

Amendment of Act 51 of 1975.

Excise

45. In the Central Excises and Salt Act, 1944,—

Amendment of Act 1 of 1944.

(1) in section 35B,—

(*a*) in sub-section (*1*), in the second proviso, for the words "ten thousand rupees", the words "fifty thousand rupees" shall be sub-stituted;

(*b*) for sub-section (*6*), the following sub-section shall be substituted, namely:—

"(6) An appeal to the Appellate Tribunal shall be in the prescribed form and shall be verified in the prescribed manner and shall, in the case of an appeal made on or after the 1st day of June, 1993, irrespective of the date of demand of duty or of levy of penalty in relation to which the appeal is made, be accompanied by a fee of,—

(*a*) where the amount of duty demanded and penalty levied by any Central Excise Officer in the case to which the appeal relates is one lakh rupees or less, two hundred rupees;

(*b*) where the amount of duty demanded and penalty levied by any Central Exise Officer in the case to which the appeal relates is more than one lakh rupees, one thousand rupees :

Provided that no such fee shall be payable in the case of an appeal referred to in sub-section (2) or a memorandum of cross-objections referred to in sub-section (*4*).";

(2) in section 35D, in sub-section (*3*), for the words "fifty thousand rupees", the words "one lakh rupees" shall be substituted.

46. The Central Excise Tariff Act, 1985 (hereinafter referred to as the Central Excise Tariff Act) shall be amended in the manner specified in the Third Schedule.

Amendment of Act 5 of 1986.

THE FIRST SCHEDULE

(*See* section 2)

PART I

INCOME--TAX

paragraph A

Sub-Paragraph I

In the case of every individual or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (*vii*) of clause (31) of section 2 of the Income-tax Act, not being a case to which Sub-Paragraph II of this Paragraph or any other Paragraph of this Part applies—

Rates of income-tax

(1) where the total income does not exceed Rs. 28,000	Nil;
(2) where the total income exceeds Rs. 28,000 but does not exceed Rs. 50,000	20 per cent. of the amount by which the total income exceeds Rs. 28,000;
(3) where the total income exceeds Rs. 50,000 but does not exceed Rs. 1,00,000	Rs. 4,400 *plus* 30 per cent. of the amount by which the total income exceeds Rs. 50,000;
(4) where the total income exceeds Rs. 1,00,000	Rs. 19,400 *plus* 40 per cent. of the amount by which the total income exceeds Rs. 1,00,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph or section 112 shall,—

(*i*) in the case of every individual or Hindu undivided family or association of persons or body of individuals referred to in section 88 having a total income exceeding one hundred thousand rupees, be reduced by the amount of rebate of income-tax calculated under that section, and the income-tax as so reduced;

(*ii*) in the case of every person, other than those mentioned in item (*i*), having a total income exceeding one hundred thousand rupees, be increased by a surcharge for purposes of the Union calculated at the rate of twelve per cent. of such income-tax:

Provided that no such surcharge shall be payable by a non-resident.

Sub-Paragraph II

In the case of every Hindu undivided family which at any time durihg the previous year has at least one member whose total income of the previous year relevant to the assessment year commencing on the 1st day of April, 1993 exceed Rs. 28,000,-

Rates of income-tax

(1) where the total income does not exceed Rs. 18,000	Nil;
(2) where the total income exceeds Rs. 18,000 but does not exceed Rs. 1,00,000	30 per cent. of the amount by which the total income exceeds Rs. 18,000;
(3) where the total income exceeds Rs. 1,00,000	Rs. 24,000 *plus* 40 per cent. of the amount by which the total income exceeds Rs. 1,00,000.

Surcharge of income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph or section 112 shall, in the case of every person having a total income exceeding one hundred thousand rupees, be reduced by the amont of rebate of income-tax calculated under Chapter VIII-A and the income-tax as so reduced be increased by a surchage for purposes of the Union calculated at the rate of twelve per cent. of such income-tax;

Provided that no such surcharge shall be payable by a non-resident.

Paragraph B

In the case of every co-operative society,—

Rates of income-tax

(1) where the total income does not exceed Rs. 10,000	10 per cent. of the total income;
(2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 20,000	Rs. 1,000 *plus* 20 per cent. of the amount by which the total income exceeds Rs. 10,000.
(3) where the total income exceeds Rs. 20,000	Rs. 3,000 *plus* 35 per cent. of the amount by which the total income exceeds Rs. 20,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph or section 112 shall in the case of every person having a total income exceeding one hundred thousand rupees, be increased by a surcharge for purposes of the Union calculated at the rate of twelve per cent. of such income-tax.

Paragraph C

In the case of every firm,—

Rate of income-tax

On the whole of the total income	40 per cent.

Surcharge on income-tax

The amount of income-tax computed at the rate hereinbefore specified or in section 112 shall, in the case of every firm having a total income exceeding one hundred thousand rupees, be increased by a surcharge for purposes of the Union calculated at the rate of twelve per cent. of such income-tax.

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Paragraph D

In the case of every local authority,—

Rate of Income-tax

On the whole of the total income 30 per cent.

Surcharge on income-tax

The amount of income-tax computed at the rate hereinbefore specified or in section 112 shall, in the case of every person having a total income exceeding one hundred thousand rupees, be incresed by a surcharge for purposes of the Union calculated at the rate of twelve per cent. of such income-tax.

Paragraph E

In the case of a company,—

Rates of income-tax

I. In the case of a domestic company,—

(1) where the company is a company in which the public are substantially interested 45 per cent. of the total income;

(2) where the company is not a company in which the public are substantialy interested 50 per cent. of the total income.

II. In the case of a company other than a domestic company,—

(i) on so much of the total income as consists of—

(*a*) royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976, or

(*b*) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976,

and where such agreement has, in either case, been approved by the Central Government 50 per cent.;

(*ii*) on the balance, if any, of the total income 65 per cent.

Surcharge on income-tax

The amount of income-tax computed in accordance with the provisions of this Paragraph or section 112 shall, in the case of every domestic company having a total income exceeding seventy-five thousand rupees, be increased by a surcharge calculated at the rate of fifteen per cent. of such income-tax.

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PART-II

RATES FOR DEDUCTION OF TAX AT SOURCE IN CERTAIN CASES

In every case in which under the provisions of section 193, 194, 194A, 194B, 194BB, 194D and 195 of he Income-tax Act, tax is to be deducted at the rates in force, deduction shall be made from the income subject to deduction at the following rats:—

	Rate of income-tax
1. In the case of a person other than a company—	
(*a*) where the person is resident in India—	
(*i*) on income by way of interest other than "Interest on securities"	10 per cent,;
(*ii*) on income by way of winnings from lotteries and crossword puzzles	40 per cent.;
(*iii*) on income by way of winnings from horse races	40 per cent.;
(*iv*) on income by way of in surance commission	10 per cent.;
(*v*) on income by way of interest payable on—	10 per cent.;
(*A*) any security, other than a tax-free security, of the Central or a State Government;	
(*B*) any debentures or other securities for money issued by or on behalf of any local authority or a corporation established by a Central, State or Provincial Act;	
(*C*) any debentures issued by a company where such debentures are listed on a recognised stock exchange in india in accordance with the Securities Contracts (Regulation) Act, 1956 and any rules made thereunder;	
(*vi*) on any other income (excluding interest payable on a tax-free secutiry)	20 per cent.
(*b*) where the person is not resident in India—	
(*i*) in the case of a non-residenet Indian—	
(*A*) on investment income and long-term capital gains.	20 per cent.;
(*B*) on income by way of interest payable on a tax-security.	15 per cent.;
(*C*) on income by way of winnings from lotteries and crossword puzzles.	40 per cent.;
(*D*) on income by way of winnings from horse races.	40 per cent.;
(*E*) on the whole of other income.	income-tax at 30 per cent. of the amount of income or income-tax in respect of the income at the rates prescribed in Sub-Paragraph I of paragraph A of Part III of this Schedule, if such income had been the total income, which ever is higher;

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(*ii*) in the case of any other person—	
(*A*) on income by way of interest payable on a tax-free security.	15 per cent.;
(*B*) on income by way of winnings from lotteries and cross word puzzles.	40 per cent.;
(*C*) on income by way of winnings from horse races.	40 per cent.;
(*D*) on income by way of long-term capital gains—	
(1) in the case of individuals and Hindu undivided families.	20 per cent.;
(2) in any other case [except a company referred to in sub-term (*b*) of item 2]	30 per cent.;
(*E*) on the whole of the other income	income-tax at 30 per cent. of the amount on income. or income-tax in respect of the income at the rates prescribed in Sub-Paragraph I of Paragraph A of part III of this Schedule, if such income had been the total income, whichever is higher
2. In the case of a company—	
(*a*) Where the company is a domestic company—	
(*i*) on income by way of interest their than "Interest on securities."	20 per cent.;
(*ii*) on income by way of winnings from lotteries and crossword puzzles	40 per cent.;
(*iii*) on income by way of winnings from horse races	40 per cent.;
(*iv*) on any other income (excluding interest payable on tax free security).	21.5 per cent.;
(*b*) Where the company is not a domestic company—	
(*i*) on income by way of dividends payable by any domestic company.	25 per cent.;
(*ii*) on income by way of winnings from lotteries and crossword puzzles.	40 per cent.;
(*iii*) on income by way of winnings from house races.	40 per cent.;
(*iv*) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian conern in foreign currency.	25 per cent.;

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(*v*) on income byway of royalty payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March 1976, where such royalty is in consideration for the transfer of all or any rights (including the granting of a licence) in respect of copyright in any book on a subject referred to in the first proviso to sub-section (IA) of section 115A of the Income-tax Act, to the Indian concern, or in respect of any computer softwate referred to in the second proviso to sub-section (*I*-A) of section 115A of the Income-tax Act to a person resident in India. 30 per cent. ;

(*vi*) On income by way of royalty [not being royalty of the nature referred to in sub -item (*b*) (*v*)] payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—

(*A*) where the agreement is made after the 31st day of March, 1961 but before the 1st day of April, 1976. 50 per cent. ;

(*B*) where the agreement is made after the 31st day of March, 1976 30 per cent. ;

(*vii*) on income by way of fees for technical services payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy for the time being in force, of the Government of India, the agreement is in accordance with that policy—

(*A*) where the agreement is made after the 29th day of February, 1964 but before the 1st day of April. 1976. 50 per cent. ;

(*B*) where the agreement is made after the 31st day of March. 1976. 30 per per cent;

(*viii*) on income by way of interest payable on a tax-free security. 44 per cent. ;

(*ix*) on income by way of long-term capital gains. 40 per cent;

(*x*) on any other income. 65 per cent;

Explanation .—For the purpose of item 1(b)(*i*) of this Part, "invest-ment income" and "non-resident Indian" shall have the meanings assigned to them in Chapter--XII--A of the Income tax Act.

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Surcharge on income--tax

The amount of income--tax deducted in accordance with the provisions of—

(*a*) sub--item (*a*) of item 1 of this Part shall be increased by a surcharge for purposes of the Union calculated at the rate of twelve per cent. of such income-tax and ,

(*g*) sub-item (*a*) of item 2 of this Part shall be increased by a surcharge, calculated at the rate of fifteen per cent. of such income-tax.

PART III

RATES FOR CALCULATING OR CHARGING INCOME-TAX IN CERTAIN CASES, DEDUCTING INCOME-TAX FROM INCOME CHARGEABLE UNDER THE HEAD "SALARIES" AND "COMPUTING ADVANCE TAX"

In cases in which income-tax has to be calculated under the first proviso to sub-section (5) of section 132 of the Income-tax Act or charged under sub-section (*4*) of section 172 or sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 of the said Act or deducted under section 192 of the said Act from income chargeable under the head "Salaries" or in which the "advance tax" payable under Chapter XVII--C of the said Act has to be computed at the rate or rates in force, such income-tax or, as the case may be, "advance--tax" [not being "advance tax" in respect of any income chargeable to tax under Chapter XII or Chapter XII--A or sub--section (1-A) of section 161 or section 164 or section 164-A or section 167B of the Income tax Act at the rates as specified in that Chapter or section or surcharge on such "advance tax" in respect of any income chargeable to tax under section 115B], shall be calculated, charged, deducted or computed at the following rate or rates :—

Paragraph A

Sub--Paragraph I

In the case of every individual or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (*vii*) of clause (*31*) of section 2 of the Income--tax Act not being a case to which Sub-Paragraph II of this Paragraph or any other Paragraph of this Part applies ,—

Rates of income--tax

(1)	where the total income does not exceed Rs. 30,000	*Nil;*
(2)	where the total income exceeds Rs. 30,000 but does not exceed Rs.50,000	20 per cent, of the amount by which the total income exceeds Rs. 30,000 ;
(3)	where the total income exceeds Rs. 50,000 but does not exceed amount Rs.1,00,000	Rs. 4,000 *plus* 30 per cent. of the amount by which the total income exceeds Rs. 50,000 ;
(4)	where the total income exceeds Rs. 1,00,000.	Hs. 19,000 plus 40 per cent of the amount by which the total income exceeds Rs. 1,00,000.

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Surcharge on income tax

The amount of income tax computed in accordance with the preceding provisions of this Sub-Paragraph or section 112 shall,—

(*i*) in the case of every individual or Hindu undivided family or association of of persons or body of individuals referred to in section 88 having a total income exceeding one hundred thousand rupees, be reduced by the amount of rebate of income--tax calculated under Chapter VIII--A and the income--tax as so reduced,

(*ii*) in the case of every persson, other than those mentio ned in item (*i*) having a total income exceeding one hundred thousand rupees,

be increased by a surcharge for purposes of the Union calculated at the rate of twelve per cent. of such income tax ;

Provided that no such surcharge shall be payable by a non-resident.

Sub-Paragraph II

In the case of every Hindu undivided family which at any time during the previous year has at least one member whose total income of the previous year relevant to the assessment year commencing on the 1st day of April, 1994 exceeds Rs. 30,000—

Rates of income-tax

(1)	where the total income does not exceed Rs. 18,000.	Nil.
(2)	where the total income exceeds Rs. 18,000 but does not exceed Rs. 1,00,000.	30 per cent. of the amount by which the totaf income exceeds Rs. 18,000 ;
(3.)	where the total income exceeds Rs. 1,00,000	Rs.24,600 *plus* 40 per cent. of the amount by which the total income exceeds Rs. 1,00,000.

Surcharge on income-tax]

The amount of income-tax computed in accordance with the preceding provision of this Sub-Paragraph of section 112 shall, in the case of every person having a total income exceeding one hundred thousand rupees, be reduced by the amount of rebate of income-tax calculated under Chapter VIII-A and the income-tax as so reduced, be increased by a surcharge for purposes of the Union calculated at the rate of twelve per cent. of such income-tax.

Provided that no such surcharge shall be payable by a non-resident.

Paragraph B

If the case of every cp-operative soceity,—

Rates of incomre-tax

(1) where the total income does not exceed Rs. 10,000.	10 percent. of the total income ;
(2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 20,000.	Rs. 1,000 *plus* 20 per cent of the amount by which the total income exceeds Rs. 10,000 ;
(3) where the total income exceeds Rs. 20,000.	Rs. 3,000 *plus* 35 per cent. of the amount by which the total income excee Rs.20,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph or section 112 shall, in the case of every person having a total income exceeding one hundered thousand rupees, be increased by a surcharge for purposes of the Union calculated at the rate of twelve per cent, of such income-tax.

Parapgraph C

In the cae of every firm,—

Rate of incomr-tax

On the whole of the total income	40 per cent.

Surcharge on income-tax

The amount of income-tax computed at the rate hereinbefore specified or in section 112 shall, in the case of every firm having a total income exceeding one hundered thousand rupees, be increased by a surcharge for purposes of the Union calculated at the rate of twelve percent. of such income-tax.

Paragraph D

In the case of every local authority,—

Rate of income-tax

On the whole of the total income	30 per cent.

Surcharge on income-tax

The amount of income-tax computed at the ratehereinafter specified or in section 112, shall, in the case of every person having total income exceeding one hundred thousands rupees, be increased by a surcharge for purposes of the Union calculated at the rate of twelve per cent. of such income-tax.

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Paragraph E

In the case of a company,—

Rate of income-tax

I. In the case of a domestic copmany,—

(1) where the company is a company in which the public are substantially interested. 45 per cent. of the total income;

(2) where the company is not a company in which the public are substantially interested. 50 per cent. of the total income.

II. In the case of a company other than a domestic company,—

(*i*), on so much of the total income as consists of—

(*a*) royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976, or

(*b*) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976.

and where such agreement has, in either case, been approved by the Central Government. 5o per cent.

(*ii*) on the balance, if any, of the total income 65 per cent.

Surcharge on income-rax

The amount of income-tax computed in accodance with the provisions of this Paragraph or section 11 shall, in the case of every domestic company having a total income exceeding seventy-five thousand rupees, be increased by a suchrage calculated at the rate of fifteen per cent. of such income-tax.

PART IV

[*See* section 2(*9*)(*d*)]

RULES FOR COMPUTATION OF NET AGRICULTURAL INCOME

Rule 1.—Agricultural income of the nature refreed to in sub-clause (*a*) of clause (1*A*) of section *2* of the Income-tax Act shall be computed as if it were income chargeable to income-tax under that Act under the head "Income from other sources" and the provisions of section 57 to 59 of that Act shall so far as may be, apply accordingly:

Provided that sub-section (*2*) of section 58 shall apply subject to the modification that the reference to section 40A therein shall be construed as not including a reference to sub-sections (*3*) and (*4*) of section 40A.

Rule 2.—Agricultural income of the nature referred to in sub-clause (*b*) or sub-clause (*c*) of clause (*1A*) of section 2 of the Income-tax Act [other than income derived from any building required as a dwelling house by the receiver of the rent or revenue or the cultivator of the received of rent in-kind referred to in the said sub-clause (*c*) shall be computed as if it were income chargeable to income-tax under that Act under the head Profits and gains of business or profession" and the provisions of sections 30, 31, 32, 36, 37, 38, 40, 40A [other than sub-sections (*3*) and (*4*) thereof, 41, 43, 43A, 43B and 43C of the Income-tax Act shall, so far as may be, apply accordingly

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Rule 3.—Agricultural income of the nature referred to in sub-clause (*c*) of clause (*1A*) of section 2 of the Income-tax, Act being income derived from any building required as a dwelling house by the receiver of the rent or revenue or the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (*c*) shall be computed as if it were income chargeable to income-tax under that Act under the head "Income from house property" and the provisions of sections 23 to 27 of that Act shall, so far as may be, apply accordingly.

Rule 4.—Notwithstanding anything contained in any other provisions of these rules, in a case where the assessee derives income from sale of tea grown and, manufactured by him in India, such income shall be computed in accordance with rule 8 of the Income-tax Rules, 1962, and sixty per cent of such income shall be regarded as the agricultural income of the assessee.

Rule 5.—Where the assessee is a member of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) which in the previous year has either no income chargeable to tax under the Income-rtax Act or has total income not exceeding the maximum amount not chargeable to tax in the case of an association of persons of a body of individuals (other than a Hindu undivided family, a company or a firm) but has any agricultural income, then, the agricultural income or loss of the association or body shall be computed in accordance with these rules and the share of the assessee in the agricultural income or loss so computed shall be regarded as the agricultural income or loss of the assessee.

Rule 5.—Where the result of the computation for the previous year in respect of any source of agriculural income is a loss, such loss shall be set off against the income of the assessee, if any, for theat previous year from any other source of agricultural income :

Provided that where the assessee is a member of an association of persons or a body of individuals and the share of the assessee in the agricultural income of the association or body, as the case may be, is a loss, such loss shall not be set any income of the assessee from any other source of agricultural income.

Rule 7.—Any sum payable by the assessee on account of any tax levied by the State Government on the agricultural income shall be deducted in computing the agricultural income.

Rule 8.—(*1*) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 1993, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more the previous year relevant to the assessment years commencing on the 1st day of April, 1985 or the 1st day of April, 1986 or the 1st day of April, 1987 or the 1st day of April, 1988 or the 1st day of April, 1989 or the 1st day of April, 1990 or the 1st day of April, 1991 or the 1st day of April 1992, is a loss, then, for the purposes of sub-Section (*2*) of this Act,-

(*i*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1985, to the extent, if any, such loss has not been ser off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1986 or the 1st day of April, 1987 or the 1st day of April, 1988 or the 1st day of April, 1989 or the 1st day of April, 1990 or the 1st day of April, 1991 or the 1st day of April, 1992.

(*ii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1986, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1987 or the first day of April, 1988 or the 1st day of April, 1989 or the 1st day of April, 1990 or the 1st day of April, 1991 or the 1st day of April, 1992.

(*iii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1983, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1988 or the 1st day of April, 1989 or the first day of April, 1990 or the 1st day of April, 1991 or the 1st day of April, 1992.

(*iv*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1988, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1989 or the 1st day of April, 1990 or the 1st day of April, 1991 or the 1st day of April, 1992.

(*v*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st of April, 1989, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1990 or the 1st day of April, 1991 or the 1st day of April, 1991 or the 1st day of April, 1992.

(*vi*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1990, to the extent if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1991 or the 1st day of April, 1992.

(*vii*) the loss so computed for the previous year relevant to the assessment year commencing in the 1st day of April, 1991, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1992 and

(*viii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1992,

shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 1993.

(*2*) Where the assessee has in the previous year relevant to the assessment year commencing on the 1st day of April, 1994 or, if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect of the income of a period other than that previous year, in such other period, any agricultural income and the net result, of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment years commencing on the 1st day of April, 1986 or the 1st day of April, 1987 or the 1st day of April, 1988 or the 1st day of April, 1989 or the 1st day of April, 1990 or the 1st day of April, 1991 or the 1st day of April, 1992 or the 1st day of April, 1993, is a loss then, for the purposes of sub-section (*8*) of section 2 of this Act.—

(*i*) the loss so comptued for the previous year relevant to the assessment year commencing on the 1st day of April, 1986, to the extent, if any, such loss has not been set off against the agrieltural income for the previous year relevant to the assessment year commencing on the 1t day of April, 1987 or the 1st day of April, 1988 or the 1st day of April, 1989 or the 1st day of April, 1990 or ge 1st day of April, 1991 or the 1st dat of April, 1992 or the 1st dat of April, 1993,

(*ii*) the loss so computed for the previous year revelevant to the assessment year commencing on the 1st day of April, 1987, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1988 or the 1st dat of April, 1989 or the 1st day of April, 1990 or the 1st dat of April, 1991 or the 1st day of April, 1992 or the 1st day of April, 1993.

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(*iii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1988, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year comencing on the 1st day of April, 1989 or the 1st day of April, 1990 or the 1st day of April, 1991 or the 1st day of April, 1992 or the 1st day of April, 1993.

(*iv*) the loss so computed for the previuos year relevant to the assessment year commencing on the 1st day of April 1989, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the asessement year commencing on the 1st day of April, 1990 or the 1st day of April, 1991 or the 1st day of April, 1992 or the 1st day of April, 1993.

(*v*) the loss so computed for the prevous year relevant to the assessment year commencing on the 1st day of April, 1990, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1991 or the 1st day of April, 1992 or the 1st day of April, 1993.

(*vi*) the loss so compuated for the previous year relevant to the assessment year commencing on the 1st dat of April, 1991, to the extent, if any, such loss has not been set off aginst the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1992 or the 1st date of April, 1993.

(*vii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1992, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1993, and

(*viii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1993,

shall be set on against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 1994.

(3) Where any person deriving any agricultural income from any source has been succeeded in such capacity by another person, otherwise than by inheritance, nothing in sub-rule (*1*) or sub-rule (2) shall entitle any person, other that the person incurring the loss, to have it set off under sub-rule (*1*) or, as the case may be, sub-rule (2).

(4) Notwithstanding anything contained in this rule, no loss whicff ffas not been determined the Assessing Officer under the provisons of these rules or the rules contained in Part IV of the First Schedule to the Finance Act, 1985 (32 of 1985), or the First Schedule to the Finance Act, 1986 (23 of 1986), or of the First Schedule to the Finance Act, 937 (11 of 1937), or of the First Schedule to the Finance Act, 1988 (26 of 1988), or of the First Schedule to the Finance Act, 1989 (13 of 1989), or of the First Schedule to the Finance Act, 1990 (12 of 1990), or of the First Schedule to the Finance (No. 2) Act, 1991 (49 of 1991), or of the First Schedule to the Finance Act, 1992 (18 of 1992), shall be set off under sub-rule (*1*) or, as the case may be, sub-rule (2).

Rule 9.—Where the net result of the computation made in accordance with these rules is a loss, the loss so computed shall be ignored and the net agricultural income shall be deemed to be *nil*.

Rule 10.—The provisons of the Income-tax Act relating to procedure for assessment (including the provisions of section 288A of relating to rounding off of income) shall, with the necessary modifications, apply in relation to the computation of the net agricultural income of the assessee as they apply in relation to the assessment of the total income.

Rule 11.—For the purposes of computing the net agricultural income of the assessee, the Assessing Officer shall have the same powers as the has under the Income-tax Act for the purposes of assessment of the total income.

THE SECOND SCHEDULE

(*See* secion 44)

In the First Schedule to the Customs Tariff Act,—

(*1*) in Chapter 1, for the entry in column (4) occurring agsinst all the sub- heading Nos., the entry "85%" shall be substituted;

(*2*) in Chapter 4, for the entry in column 4 occurring agsint all the sub-heading No.s; the entry "85%" shall be substituted;

(*3*) in Chapter 5,—

(*i*) for the entry in column (4) occurring agsinst all the sub-heading Nos. (except sub-heading No. 0507.10), the entry "85%" shall be substituted;

(*ii*) in sub-heading No. 0507.10, for the entries in column (4) and column (5); the entries "85%" and "75%" shall respectively be substituted;

(*4*) in Chapter 7, for the entires in column (4) and colum (5) occurring against all the sub-heading No.s, the entires "85%" and "75%" shall respectively be substituted;

(*5*) In Chapter 8, for the entries in column (4) and column (5), occurring against all the sub-heading Nos. (except sub-heading Nos. 0802.11, 0802.12, 0802.90, 0804.10 and 0806.20), the entries "85%" and "75%" shall respectively be substituted;

(*6*) in Chapter 9,—

(*i*) in sub-heading Nos. 0901.11, 0901.12, 0901.21, 0901.22, 0901.30 and 0901.40, for the entries in column (4) and coluna (5) occurring agsinst each of them, the entires "85%" and "85% less 13 paise per Kg." shall respectively be substituted;

(*ii*) in sub-heading Nos. 0902.10, 0902.20, 0902.30, 0902.40 and 0903.00, for the entries in column (4) and column(5) occurring against each of them, the entires "85%" and "85% less 26 paise per Kg." shall respectively be substituted;

(*iii*) in sub-heading Nos. 0904.11 and 0904.12,'for the entires in column (4) and column (5) occurring against each of them the entries "85%" and "77.5%" shall respectively be substituted;

(*iv*) in sub-heading Nos. 0904.20 and 0905.00, for the entry in column (4) the entry "85%" shall be substituted;

(*v*) in sub-heading No.s 0908.10 and 0908.30, for the etries in columa (4) and column (5) occurring against each of them the entries "85%" and "775%" shall respectively be substituted;

(*vi*) in sub-heading Nos. 0909.10 0909.20, for the entries in column (4), the entry "85%" shall be substituted;

(*vii*) in sub-heading Nos. 0909.10, 0909.20, 0909.30, 0909.40, 0909.50, 0910.10, 0910.20, 0910.30, 0910.40, 0910.50, 0910.91 and 0910.99, for the otry in column (4) the entry "85%" shall be substituted;

(*7*) in Chapter 12,—

(*i*) in sub-heading No. 1201.00, 1202.10, 1202.20, 1203.00 1204.00, 1205.00, 1206.00, 1207.10, 1207.20, 1207.30, 1207.40, 1207.50, 1207.60, 1207.91, 1207.92 1207.93 and 1207.99, for the entries in column (4) and column (5) occcurring against each of them, the entries "85" and "75%" shall respectively be substituted (*ii*) in sub-heading No.s. 1208.10, 1208.90, 1209.11, 1209.19, 1209.21, 1209–22 1209.23, 1209 24, 1209.25, 1209.26, 1209.29, 1209.30, 1209.91, 1209.99, 1210.10. 1210.20. 1211.10, 1211.20, 1211.90, 1212.10, 1212.20, 1212.30, 1212.91, 1212.92, 1212.99, 1213.00, 1214.10 and 1214.90, for the entry in column (4), the entry "85'% shall be substituted :

(*8*) in Chapter 13,—

(*i*) for the entry in column (4) occurring agsinst all the sub-heading Nos. (except sub-heading No. 1301.20), the entry "85%" shall be substituted;

(*ii*) in sub-heading No. 1301.20, for the entries in column (4) and column (5), the entries "85%" and "75%" shall respectively be substituted;

(*9*) in Chapter 15,—

(*i*) in sub-heading Nos. 1501.00, 1502.00, 1503.00, 1504.10, 1504.20, 1504.30, 1505.10, 1505.90 and 1506.00, for the entry in column (4), the entry "85%" shall be substituted;

(*ii*) in sub-heading Nos. 1507.10, 1507–90, 1508.10,1508.90, 1509.10, 1509.90, 1510.00,, 1511.10, 1511.90, 1512.11, 1512.19, 1512.21, 1512.29, 1513.11, 1513.19, 1513.21, 1513.29, 1514.10, 1514.90, 1515.11, 1515.19, 1515.21, 1515.29, 1515.30, 1515.40, 1515.50, 1515.60 and 1515.90, for the entries in column (4) and column (5) occurring against each of them, the entries "85%" and "75%" shall respectively be substituted;

(*iii*) in sub-heading Nos. 1516.10, 1516.20, 1517.10, 1517.90, 1518.00, 1519.11, 1519.12, 1519.13, 1519.19, 1519.20. 1520.10 1520.90, 1521.10, 1521.90 and 1522.00, for the entry in column (4) the entry "85%" shall be substituted;

(*10*) in Chaper 16, for the entry in column (4) occurring against all the sub-heading Nos., the entry "85%" shall be substituted;

(*11*) in Chapter 17, for the entry in column (4) occurring against all the sub-heading Nos., the entry "85%" shall be substituted;

(*12*) in Chapter 18, for the entry in column (4) occurring against all the sub-heading Nos., the entry "85%" shall be substituted;

(*13*) in Chapter 19, for the entry in column (4) occurring against all the sub-heading Nos., the entry "85%" shall be substituted;

(*14*) in Chapter 20, for the entry in column (4) occurring against all the sub-heading Nos., the entry "85%" shall be substituted;

(*15*) in Chapter 21, for the entry in column (4) occurring against all the sub-heading Nos., the entry "85" shall be substituted;

(*16*) in Chapter 22,—

(*i*) in sub-heading Nos. 2201.10, 2201.90, 2202.10 and 2202.90, for the entry in column (4), the entry "85%" shall be substituted;

(*ii*) in sub-heading No. 2203.00, for the entry in column (4) the, entry "145%" shall be sustituted;

(*iii*) in sub-heading Nos. 2204.10, 2204.21 and 2204.29, for the entyr in column(4), the entry "Rs 100 per litre or 315%, whichever is higher" shall be substituted;

(*iv*) in sub-heading No. 2204.30, for the entry in column (4), the entry "145%" shall be substituted;

(*v*) in sub-heading Nos. 2205.10 and 2205.90, for the entry in column (4), the entry "Rs. 100 per litre or 315%, whichever is higher" shall be substituted;

(*vi*) in sub-heading No. 2206.00, for the entry in column (4), the entry "145%" shall be substituted;

(*vii*) in sub-heading No. 2207.10, for the entry in column (4), the entry "Rs. 300 per litre or 400%whichever is higher " shall be substituted;

(*viii*) in sub-heading No. 2207.20, for the entry in column (4), the entry "105%" shall be substituted.

(*ix*) in sub-heading Nos. 2208.10, 2208.20, 2208.30 2208.40, 2208.50 and for the entry in column (4), the entry Rs. 300 per litre or 400% whichever is higher" shall be substituted.

(*x*) in sub-heading No. 2209.00, for the entry in column (4), the entry "85%" shall be substituted;

(*17*) in Chapter 23, for the entry in column (4) occurring against all the sub-heading Nos. the entry "85%" shall be subsuted.;

(*18*) in Chapter 24, for the entry in column (4) occuring against all the sub-heading Nos, the entry "85%" shall be substituted.

(*19*) in Chapter 25,—

(*i*) for the entry in column (4) 2504.10 occurring against all the sub-heading Nos. (except sub-heading Nos. 2504, .90 and 2527.00), the entry "85%" shall be substituted;

(*ii*) in sub-heading Nos. 2504.10, 2504.90 and 2527.00, for the entries in column (4) and column (5) occurring against each of them, the entries "85%" and "75%" shall respectively be substituted.

(*20*) in Chapter 26, for the entry in column (4)m occurring against all the sub-heading Nos. the entry "85%" shall be substituted.;

(*21*) in Chapter 27 for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading No. 2716.00) the entry "85%" shall be substituted;

(*22*) in Chapter 28 for the entry in column (4) occurring against all the sub-heading Nos.. the entry "85%" shall be substituted;

(*23*) in Chapter 29,—

(*i*) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 2917,37, 2933.71, 2936.10 2936.21, 2936.22, 2936.23, 2936.24, 2936.25, 2936.26, 2936.27, 2936.28, 2936.29, 2936.30, 2936.90 2937.10, 2936.21, 2937.22, 2937.29, 2937.91, 2937.92, 2937.99, 2939.40, 2939.50, 2941,10, 2041.20, 2941.30, 2941.40, 2941.50 and 2941.90), the entry "85%" shall be substituted.

(*ii*) in sub-heading Nos. 2917.37, 2933.71, 2937.10, 2937.21, 2937.22, 2937.29, 2937.91, 2937.92, 2937.99, 2939.40 and 2939.50, for the entries in column (4) and column (5) occurring against each of them, the entries "85%" and "75%" shall respectively be substituted.

(*iii*) in sub-heading Nos', 2936.10, 2936.21, 2936.22, 2936.23, 2936.24, 2936.25, 2936.26, 2936.27, 2936.28, 2336.29, 2936.90, 2941.10, 2941.20, 2941.30, 2941.40, 2941.50, and 2941.90, for the entries in column (4) and column (5) occurring against each of them, the entries "85%" and "79'%" shall respectively be substituted;

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(*24*) in Chapter 30,—

(*i*) in sub-heading Nos. 3001.10, 3001.20, 3001.90, 3002.10, 3002.20, 3002.31, 3002.39, 3002.90, 3003.10, 3003.20, 3003.31, 3003.39, 3003.40, 3003.90, 3004.10, 3004.20, 3004.31, 3004.32, 3004.39, 3004.30, 3004.50, and 3004.90 for the entries in column (4) and column (5) occuring against, each of them, the entries "85%" and "75%" shall respectively be substituted;

(*ii*) in sub-heading Nos. 3005.10, 3005.90, 3006.10, 3006.20, 3006.30, 3006.40, 3006.50 and 3006.60, for the entry in column (4), the entry "85%" and 75% shall be substituted;

(*25*) in Chapter 31, for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 3102.21, 3105.20, 3105.51, 3105.59, 3105.60 and 3105.90), the entry 85%" shall be substituted.

(*26*) in Chapter 32,—

(*i*) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading No. 3201.90), the entry "85%" shall be substituted;

(*ii*) in sub-heading No. 3201.90, for the entries in column (4) and column (5), the entries "85%" and 75%" shall respectively be substituted;

(*27*) in Chapter 33, for the entry in column (4) occurring against all the sub-heading Nos. the entry "85%" shall be substituted;

(*28*) in Chapter 34,—

(*i*) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 3402.11, 3402.12, 3402.13 and 3402.19), the entry "85%" shall be substituted;

(*ii*) in sub-heading Nos. 3402.11, 3402.12, 3402.13 and 3402.19, for the entries in column (4) and column (5) occurring against each of them, the entries "85%" and "75%" shall respectively be substituted;

(*29*) in Chapter 35, for the entry in column (4) occurring against all the sub-heading Nos. the entry "85%" shall be substituted;

(*30*) in Chapter 36, for the entry in column (4) occurring against all the sub-heading Nos., the entry "85% shall be substituted;

(*31*) in Chapter 37, for the entry in column (4) occurring against all the sub-heading Nos. the entry "85%" shall be substituted.

(*32*) in Chapter 38,—

(*i*) for the entry in column (4) occurring againt all the sub-heading Nos. (except sub-heading Nos. 3801.10, 3802.10, 3812.10, 38.15.11 and 3815.12), the entry "85%" shall be substituted;

(*ii*) in sub-heading Nos. 3801.10, 3802.10, 3812.10, 3815.11 and 3815.12, for the entries in column (4) and column (5) occurring against each of them, the entries "85%" and 75%" shall respectively be substituted;

(*33*) in Chapter 39, for the entry in column (4) occurring against all the sub-heading Nos. the entry "85%" shall be substituted;

(*34*) in Chapter 40,—

(*i*) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 4010.10, 4010.91 and 4010.99), the entry "85%" shall be substituted;

(*ii*) in sub-heading Nos. 4010.10, 4010.91 and 4010.99, for the entry in column (4), the entry "70%" shall be substituted;

(*35*) in Chapter 41,—

(*i*) for the entry in column (4) occurring against all the sub-heading Nos.(except sub-heading Nos. 4101.10, 4101.21, 4101.22, 4101.29, 4101.30, 4101.40, 4102.10, 4102.21, 4102.29, 4103.10, 4103.20 and 4103.90), the entry "85%" shall be substituted;

(*ii*) in sub-heading Nos. 4101.10, 4101.21, 4101.22, 4101.29, 4101.30, 4101.40, 4102.10, 4102.21, 4102.29, 4103.10, 4103.20 and 4103.90 for the entry in column (4), the entry "45%" shall be substituted;

(*36*) in Chapter 42, for the entry in column (4) occurring against all the sub-heading Nos. the entry "85%" shall be substituted;

(*37*) in Chapter 43, for the entry in column (4) occurring against all the sub-heading Nos. the entry "85%" shall be substituted;

(*38*) in Chapter 44, for the entry in column (4) occuring against all the sub-heading Nos., the entry "85%" sall be substituted;

(*39*) in Chapter 45, for the entry in column (4) occuring against all the sub-heading Nos. the entry "85%" shall be substituted.

(*40*) in Chapter 46, for the entry in column (4) occuring against all the sub-heading Nos., the entry "85%" shall be substituted.

(*41*) in Chapter 47, for rhe entry in column (4) occurring against all the sub-heading Nos., the entry "85%" shall be substituted.

(*42*) in Chapter 48, for the entry in column (4) occurring against all the sub-heading Nos., the entry "85%" shall be substituted.

(*43*) in Chapter 49,—

(i) in sub-heading Nos. 4901. 10, 4901. 91, 4901. 99, 4902.10 4902.90 4903-00, 4904.00, 4905.10, 4905.91, 49.0599 and 4905.00 for the entry in column, (4) the entry '45%" shall be substituted.

(ii) in sub-heading Nos. 4907-00, 4908-10, 4908-90, 4909-00, 4910-00 4911-4911.10, 4911-91 and 4911-99, for the entry in column (4), the entry 85%" shall be substituted.

(*44*) in Chapter 50, for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading No. 5002.00), the entry"85%" shall be substituted.

(*45*) in Chapter 51, for the entry in column (4) occurring against all the sub-heading Nos., the entry "85%" shall be substituted.

(46) in Chapter 52,—

(i) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading No. 5201.00), the entry "85%" shall be substituted;

(ii) in sub-heading No. 520.100, for the entry in column (4), the entry "45%" shall be substituted;

(47) in Chapter 53, for the entry in column (4) occurring against all the sub-heading Nos., the entry "85%" shall be substituted;

(48) in Chapter 54, for the entry in column (4) occuring against all the sub-heaheading Nos., the entry "85%" shall be substituted;

(49) in Chapter 55, for the entry in column (4) occurring against all the sub-heading Nos., the entry "85%" shall be substituted;

(50) in Chapter 56, for the entry in column (4) occurring against all the sub-heading Nos., the entry "85%" shall be substituted;

(51) in Chapter 57, for the entry in column (4) occurring against all the sub-heading Nos., the entry "85%" shall be substituted;

(52) in Chapter 58, for the entry in column (4) occurring against all the sub-heading Nos., the entry "85%" shall be substituted;

(53) in Chapter 59, for the entry in column (4) occurring against all the sub-heading Nos., the entry "85%" shall be substituted;

(54) in Chapter 60, for the entry in column (4) occurring against all the sub-heading Nos., the entry "85%" shall be substituted;

(55) in Chapter 61, for the entry in column (4) occurring against all the sub-heading Nos., the entry "85%" shall be substituted;

(56) in Chapter 62, for the entry in column (4) occurring against all the sub-heading Nos., the entry "85%" shall be substituted;

(57) in Chapter 63, for the entry in column (4) occurring against all the sub-heading Nos. the entry "85%" shall be substituted;

(58) in Chapter 64, for the entry in column (4) occurring against all the sub-heading Nos., the entry "85%" shall be substituted.

(59) in Chapter 65, for the entry in column (4) occurring against all the sub-heading Nos., the entry "85%" shall be substituted;

(60) in Chapter 66, for the entry in column (4) occurring against all the sub-heading Nos., the entry "85%" shall be substituted;

(61) in Chapter 67, for the entry in column (4) occurring against all the sub-heading Nos., the entry "85%" shall be substituted;

(62) in Chapter 68, for the entry in column (4) occurring against all the sub-heading Nos., the entry "85%" shall be substituted;

(63) in Chapter 69, for the entry in column (4) occurring against all the sub-heading Nos., the entry "85%" shall be substituted;

(64) in Chapter 70, for the entry in column (4) occurring against all the sub-heading Nos., the entry "85%" shall be substituted;

(65) in Chapter 71, for the entry in column (4) occuring against all the sub-heading Nos., the entry "85%" shall be substituted;

(66) in Chapter 72, for the entry in column (4) occurring against all the sub-heading Nos., the entry "85%" shall be substituted;

(67) in Chapter 73, for the entry in column (4) occurring against all the sub-heading Nos., the entry "85%" shall be substituted;

(68) in Chapter 74, for the entry in column (4) occurring against all the sub-heading Nos., the entry "80%" shall be substituted;

(69) in Chapter 75, for the entry in column (4), occurring against all the sub-heading Nos., the entry "70%" shall be substituted;

(70) in Chapter 76, for the entry in column (4) occurring against all the sub-heading Nos., entry 70%" shall be substituted,

(71) in Chapter 78, for the entry in column (4) occurring against all the sub-heading Nos., entry "70%" shall be substituted;

(72) in Chapter 79, for the entry in column (4) occurring against all the sub-heading Nos., the entry "70%" shall be substituted;

(73) in Chapter 80, for the entry in column (4) occurring against all the sub-heading Nos., the entry "70%" shall be substituted;

(74) in Chapter 81, for the entry in column (4) occurring against all the sub-heading Nos., the entry "70%" shall be substituted;

(75) in Chapter 82, for the entry in column (4) occurring against all the sub-heading Nos., the entry "85%" shall be substituted;

(76) in Chapter 83, for the entry in column (4) occurring against all the sub-heading Nos., the entry "85%" shall be susbstituted;

(77) in Chapter 84—

(i) for the entry in column (4) occurring against all the sub-heading Nos., [except sub-heading Nos., specified against sub-items (ii) to, (iv) of this item and sub-heading Nos., 8482.10 8482.20, 8483.30, 8482.40, 8482.50, 8482.80 8482.91 and 8482.99], the entry "80%" shall be substituted;

(*ii*) in sub-heading Nos. 8407.10, 8407.21, 8407.29, 8407.31, 8407.32 8407.33, 8407.34, 8407,90, 8408.10 8408.20, 8408.90, 8409.10, 8409.91, 8409.99, 8413.11, 8413.19, 8413.20, 8413.30 8413.91, 8414.30, 8414.51, 8414.59, 8414.60, 8414.80, 8414.90, 8415.10, 8415.81, 8415.82, 8415.83, 8415.90 8418.21, 8418.22, 8418.29, 8418.30, 8418.40, 8418.50, 8418.91, 8418.99, 8422.11, 8422.90, 8423.10, 8423.81, 8423.82, 8423.89, 8424.10, 8450.11, 8450.12, 8450.19. 8450.20, 8450.90, 8452.10, 8452.90, 8469.10, 8469.21, 8469.29, 8469.31, 8469.39, 8470.10, 8470.21, 8470.29, 8470.30, 8470.40, 8470.50, 8470.90, 8471.10, 8471.20, 8471.91 8471.92, 8471.93, 8471,99, 8472.10, 8472.20, 8472.30, 8472.90, 8473.30, 8476.11, 8476.19, 8481.20, 8481.30, 8481.40, 8481.80, 8481.90, 8483.10, 8483.20, 8483.30, 8483.40, 8583.50, 8483.60, 8483.90, 8484.10, 8484.90, 8485.10, and 8485.90, for the entry in column (4), the entry "85%" shall be substituted;

(*iii*) in sub-heading Nos. 8442.50, 8448.20, 8448.31, 8448.32, 8448.33, 8448.39, 8448.41, 8448.42 and 8448.49 for the entry in column (4), the entry "60%" shall be substituted;

(*iv*) in sub-heading No. 8481.10, for the entry in column (4), the entry "70%" shall be substituted;

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(78) in Chapter 85,—

(*i*) for the entry in column (4) occurring against all the sub-heading Nos. [except sub-heading Nos. specified against sub-items (*ii*) and (*iii*) of this item], the entry "85%" shall be substituted;

(*ii*) in sub-heading Nos. 8501.20, 8501.31, 8501.32, 8501.33, 8501.34, 8501.40, 8501.51, 8501.52. 8501.53, 8501.61 8501.62, 8501.63, 8501.64, 8502.11 8502.12, 8502.13, 8502.20, 8502.30, 8502.40, 8503.00, 8504.21. 8504.22, 8504.23, 8504.31, 8504.32, 8504.33, 8504.34, 8504.40, 8504.50, 8504.90, 8505.20, 8505.30 8505.90, 8508.10, 8508.20, 8508.80, 8508.90, 8514.10, 8514.20, 8514.30, 8515.11, 8515.19, 8515.21, 8515.29, 8515.31, 8515.39, 8515.80, 8515.90. 8516.90, 8530.10, 8530.80, 8530.90, 8535.10, 8535.21, 8535.29, 8535.30, 8535.40 and 8535.90, for the entry in column (4), the entry "80%" shall be substituted;

(*iii*) in sub-heading Nos. 8514.40 and 8514.90, for the entry in column (4), the entry "60%" shall be substituted;

(79) in Chapter 86,—

(*i*) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 8601.10 8601.20, 8602.10 and 8602.90), the entry "85%" shall be substituted;

(*ii*) in sub-heading Nos. 8601.10, 8601.20, 8602.10, and 8602.90, for the entry in column (4), the entry "30%" shall be substituted;

(80) in Chapter 87, for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading No. 8710.00), the entry "85%" shall be substituted;

(81) in Chapter 88, for the entry in column (4) occurring against all the sub-heading Nos., the entry "85%" shall be substituted;

(82) in Chapter 89, for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading No. 8903.00) the entry "85%" shall be substituted;

(83) in Chapter: 90,—

(*i*) for the entry in column (4) occurring against all the sub-heading Nos. [except sub-heading Nos. 9021.11, 9021.19, 9021.21, 9021,29, 9021.30, 9021.40, 9021.50, 9021.90 and sub-heading Nos., specified against sub-items (*ii*) and(*iii*) of this item], the entry "85%" shall be substituted;

(*ii*) in sub-heading Nos. 9011.10, 9011.20, 9011.80, 9012.10, 9014.10, 9014.20, 9014.80, 9015.10, 9015.20, 9015.30, 9015.40, 9015.80, 9017.10. 9017.20, 9017.30, 9017.80, 9024.10, 9024.80, 9025.11, 9025.19, 9025.20, 9025.80, 9026.10, 9026.20, 9026.80, 9027.10, 9027.20, 9027.30, 9027.40, 9027.50, 9027.80. 9028.10, 9028.20, 9028.30, 9029.10, 9029.20, 9030.10, 9030.20, 9030.31, 9030.39, 9030.40, 9030.81, 9030.89, 9031,10, 9031,20, 9031.30, 9031.40, 9031.80, 9032.10, 9032.20, 9032.81 and 9032.89, for the entry in column (4), the entry "30%" shall be substituted;

(*iii*) in sub-heading No. 9023.00, for the entry in column (4), the entry "45%" shall be substituted;

(84) in Chapter 91, for the entry in column (4) occurring against all the sub-heading Nos. the entry "85%" shall be substituted;

(85) in Chapter 92, for the entry in column (4) occurring against all the sub-heading Nos. the entry "85%" shall be substituted;

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(86) in Chapter 93, for the entry in column (4) occurring against all the sub-heading Nos., the entry "85%" shall be substituted;

(87) in Chapter 94, for the entry in column (4) occurring against all the sub-heading Nos. the entry "85%" shall be substituted;

(88) in Chapter 95, for the entry in column (4) occurring against all the sub-heading Nos., the entry "85%" shall be substituted;

(89) in Chapter 96, for the entry in column (4) occurring against all the sub-heading Nos. the entry "85%" shall be substituted;

(90) in Chapter 97,—

(*i*) for the entry in column (4) occurring against the all the sub-heading Nos. (except sub-heading Nos. 9704.00 and 9705.00), the entry "85%" shall be substituted;

(*ii*) in sub-heading Nos. 9704.00 and 9705.00, for the entry in column (4), the entry "45%" shall be substituted;

(91) in Chapter 98,—

(*i*) in sub-heading Nos. 9801.00 and 9802.00 for the entry in column (4), the entry "85%" shall be substituted;

(*ii*) in sub-heading No. 9803.00 for the entry in column (4), the entry "345%" shall be substituted;

(*iii*) in sub-heading Nos. 9804.10 and 89804.90, for the entry in column (4), the entry "85%" shall be substituted;

(*iv*) in sub-heading No. 9805.10, for the entry in column (4), the entry "75%" shall be substituted;

(*v*) in sub-heading No. 9805.90, for the entry in column (4), the entry "85%" shall be substituted.

THE THIRD SCHEDULE

(*See* section 46)

In the Schedule to the Central Excise Tariff Act,—

(1) under the heading "*Rules for the interpretation of this Schedule*", in rule 5,—

(*a*) for the words "Chapter Notes", the words "Sub-heading Notes" shall be substituted;

(b) for the words "Section Notes," the words "Chapter and Section Notes" shall be substituted;

(2) in Chapter 15, in sub-heading Nos. 1501.00, 1506.11, 1506.12, 1506.20 and 1507.00, for the entry in column (4), the entry "20%" shall be substituted

(3) in Chapter 17, in sub-heading No. 1702.21, for the entry in column (4), the entry "20%" shall be substituted;

(4) in Chepter 19, in sub-heading Nos. 1901.19 and 1901.90, for the entry in Column (4), the entry "25%" shall be substituted;

(5) in Chapter 22,—

(*a*) in sub-heading No. 2201.11, for the entry in column (4), the entry "60 paise" shall be substituted;

(b) in sub-heading No. 2201.12, for the entry in column (4), the entry "60 paise *plus* 5 paise for every 100 millilitres or fraction thereof in excess of 200 millilitres" shall be substituted;

(*c*) in sub-heading No. 2202.11, for the entry in column 4), the entry "90 paise" shall be substituted;

d) in sub-heading No. 2202.12, for the entry in column 4), the entry "95 paise" shall be substituted ;

(*e*) in sub-heading No. 2202.13, for the entry in column (4), the entry "Rs. 1.05" shall be substituted;

(*f*) in sub-heading No. 2202.14, for the entry in column (4), the entry "Rs. 1.05 plus 20 paise for every 100 millilitres or fraction there of in excess of 300 millilitres" shall be substituted;

(*g*) in sub-heading No. 2203.00 for the entry in column (4), the entry "20%" shall be substituted;

(6) in Chapter 24,—

(*a*) in sub-heading No. 2404.11, for the entry in colunn (4) the entry "20%" shall be substituted;

(b) in sub-heading No. 2404.31, for the entry in column (4), the entry "Rs. 8.60 per thousands" shall be substituted;

(*c*) in sub-heading Nos. 2404.41 and 2404.50, for the entry in column (4), the entry "25%" shall be substituted,

(7) in Chapter 25, in sub-heading No. 2503.00, for the entry in column (4), the entry "20%" shall be subssituted;

(8) in Chapter 27,—

(*a*) in sub-heading Nos. 2707.10, 2707.20, 2707.30, 2707.60 and 2707.90, for the entry in column (4), the entry "15%" shall be substituted;

(b) in sub-heading No. 2708.11, for the entry in column (4), the entry "Rs. 110 per tonne" shall be substituted;

(*c*) in sub-heading No. 2710.11. for the entry in column (4), the entry "Rs. 2,230 per kilolitre at 15 °C" shall be substituted;

(d) in sub-heading No. 2710.12, for the entry in columns (4), the entry "Rs. 2,035 per kilolitre at 15 °C" shall be substituted;

(*e*) in sub-heading No. 2710.13, for the entry in column (4), the entry "Rs. 2,200 per kilolitre at 15 °C" shall be substituted;

(*f*) in sub-heading No. 2710.32, for the entry in column (4), the entry "Rs. 1,100 per kilolitre at 15 °C" shall be substituted;

(*g*) in sub-heading No. 2710.39, for the entry in cloumn (4), the entry "Rs. 500 per kilolitre at 15 °C" shall be substituted;

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(*h*) in sub-heading No. 2710.40, for the entry in column (4), the entry "Rs. 175 per kilolitre at 15 °C" shall be substituted;

(*i*) in sub-heading No. 2710.50, for the entry in column (4), the entry "Rs. 160 per kilolitre at 15 °C" shall be substituted;

(*j*) in sub-heading Nos. 2710.60, 2710.70 and 2710.80 for the entry in column (4), the entry "Rs. 5,000 per tonne" shall be substituted;

(*k*) in sub-heading Nos. 2710.91 and 2710.92 for the entry in column (4), the entry "25%" shall be substituted;

(*l*) in sub-heading Nos. 2710.93 and 2710.94, for the entry incolumn (4), the entry "Rs. 700 per tonne" shall be substituted;

(*m*) in sub-heading No. 2210.95, for the entry in column (4), the entry "Rs. 5,000 per tonne" shall be substituted ;

(*n*) in sub-heading Nos. 2710.99, 2812.10, 2712.20 2712.90, 2713.11 and 2713.12, for the entry in column (4), the entry "25%" shall be substituted;

(*o*) in sub-heading Nos. 2713.20, 2713.80, 2714.10 and 2715.10, for the entry in column (4), the entry "Rs. 175 per tonne" shall be substituted;

(9) in Chapter 28,—

(*a*) in sub-heabing No. 2801.10, for the entry in column (4), the entry "Rs. 110 per tonne" shall be substituted;

(*b*) in sub-heading No. 2814.00, for the entry in column (4), the entry "Rs. 1,200 per tonne" shall be substituted;

(10) in Chapter 29,—

(*a*) in sub-heading No. 2901.10 for the entry in column (4), the entry "Rs. 14 per cubic metre of the gas at normal pressure at 15 °C" shall be substituted

(b) in sub-heading No. 2903.10 for the entry in column (4)., the entry "40'.% shall be substituted.

(*11*) in Chapter 32, in sub-heading No. 3204.90, for the entry in column (4), the entry "40%" shall be substituted;

(*12*) in Chapter 33,—

(*a*) in sub-heading Nos. 3301.00, 3302.10, 3302-90 and 3303.00, for the entry in column (4), the entry "25%" shall be substituted ;

(*b*) in sub-heading No. 3304-00, for the entry in column (4), the entry "70%" shall be substituted ;

(*c*) in sub-heading No. 3305.10, for the entry in column (4), the entry "30%" shall be substituted ;

(d) in sub-heading No. 3305.90, for the entry in column (4), the entry "70%" shall be substituted ;

(*e*) in sub-heading No. 3306-00, for the entry in column (4), the entry "20%" shall be substituted ;

(*f*) in sub-heading Nos. 3307.10, 3307.20 and 3307.30, for the entry in column (4), the entry "70%" shall be substituted ;

(*g*) in sub-heading No. 3307.49, for the entry in column (4), the entry "20%" shall be substituted ;

(*h*) in sub-heading No. 3307.90, for the entry in column (4), the entry "70%" shall be substituted ;

(*13*) in Chapter 34,—

(*a*) in sub-heading No. 3401.20, for the entry in column (4), the entry “30%” shall be substituted.;

(*b*) in sub-heading No. 3401.30, for the entry in column (4), the entry “20%” shall be substituted ;

(*c*) in sub-heading No. 3402.90, for the entry in column (4), the entry “35”% shall be substituted ;

(*d*) in sub-heading No. 3403.00, for the entry in column (4), the entry “20%” *plus* Rs. 4,000 per tonne” shall be substituted ;

(*e*) in sub-heading Nos. 3404.00, 3406-00 and 3407.00, for the entry in column (4), the entry “20%” shall be substituted ;

(*14*) in Chapter 35,—

(*a*) in sub-heading Nos. 3501.00, 3502.00, 3503.00 and 3504.00, for the entry in column (4), the entry “20%” shall be substituted ;

(*b*) in sub-heading No. 3505.10, for the entry in column (4), the entry “45%” shall be substituted ;

(*c*) in sub-heading Nos. 3505.20, 3505.90 and 3507.00, for the entry in column (4), the entry “20%” shall be substituted;

(*15*) in Chapter 36,—

(*a*) in sub-heading No. 3601.00, for the entry in column (4), the entry “20%” shall be substituted ;

(*b*) in sub-heading No. 3602.00, for the entry in column (4), the entry “25%” shall be substituted ;

(*c*) in sub-heading No. 3603.00, for the entry in column (4), the entry “20%” shall be substituted ;

(*16*) in Chapter 37,—

(*a*) in sub-heading No. 3701.90, for the entry in column (4), the entry “25%” shall be substituted ;

(*b*) in sub-heading No. 3702.90, for the entry in column (4), the entry “25%” *plus* Rs. 28 per square metre” shall be substituted ;

(*c*) in sub-heading Nos. 3703.10, 3703.20, 3704-10 and 3704.20, for the entry in column (4), the entry “25%” shall be substituted ;

(17) in Chapter 39, for the entry in column (4), occurring against all the sub-heading Nos. (except sub-heading Nos. 3909.60, 3915.90, 3921.11, 3922.10, 3922.20, 3922.90, 3923.11, 3923.19, 3923.90, 3924.11, 3924.19, 3924,90, 3925.10, 3925.20, 3925.30, 3925.91, 3925.99, 3926.10 and 2396.90), the entry “50%” shall be substituted ;

(18) in Chapter 40,—

(*a*) in sub-heading Nos. 4001.00, 4002.00, 4003.00 and 4004.00, for the entry in column (4), the entry “20%” shall be substituted ;

(*b*) in sub-heading No. 4005.00, for the entry in column (4), the entry “45%” shall be substituted ;

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(*c*) in sub-heading No. 4006.10, for the entry in column (4), the entry "Rs. 15 per kilogram" shall be substituted ;

(*d*) in sub-heading No. 4007.00 for the entry in column (4), the entry "20%" shall be substituted ;

(*e*) in sub-heading Nos. 4008.11 and 4008.19, for the entry in column (4) the entry "70%" shall be substituted ;

(*f*) in sub-heading No. 4008.21, for the entry in column (4), the entry "Rs. 15 per kilograms" shall be substituted ;

(*g*) in sub-heading No. 4010.10, for the entry in column (4), the entry "35"% shall be substituted ;

(*h*) in sub-heading No. 4011.20, for the entry in column (4), the entry "Rs. 50 per tyre" shall be substituted ;

(*i*) in sub-heading Nos. 4011.39 and 4011.40, for the entry in column (4) the entry "Rs. 2,100 per tyre" shall be substituted ;

(*j*) in sub-heading No. 4011.50, for the entry in column (4), the entry "Rs. 4,000 per tyre" shall be substituted ;

(*k*) in sub-heading No. 4011.60, for the entry in column (4), the entry "Rs. 700 per tyre" shall be substituted ;

(*l*) in sub-heading No. 4011.70, for the entry in column (4), the entry "Rs. 2,100 per tyre" shall be substituted ;

(*m*) in sub-heading Nos. 4011.80, and 4011.91, for the entry in column (4), the entry "70%" shall be substituted ;

(*n*) in sub-heading No. 4011.99, for the entry in column (4), the entry "35%" shall be substituted ;

(*o*) in sub-heading No. 4012.19, for the entry in column (4), the entry "Rs. 40 per flap" shall be substituted ;

(*p*) in sub-heading No. 4012.90, for the entry in column (4), the entry "20%" shall be substituted ;

(*q*) sub-heading Nos. 4013.30, 4013.40 and 4013.50, for the entry in column (4) the entry "Rs. 300 per tube" shall be substituted ;

(*r*) in sub-heading No. 4013.60, for the entry in column (4), the entry "Rs. 150 pur tube" shall be substituted;

(*s*) in sub-heading No. 4013.70, for the entry in column (4), the entry "Rs. 300 per tube" shall be substituted;

(*t*) in sub-heading No. 4013.91, for the entry in column (4), the entry "Rs. 1,150 per tube" shall be substituted;

(*u*) in sub-heading No. 4013.99, for the entry in column (4), the entry "Rs. 115 per tube" shall be substituted;

(*v*) in sub-heading Nos. 4014.90, and 4015.00, for the entry in column (4), the entry "20%" shall be substituted;

(*w*) in sub-heading No. 4016.11, for the entry in column (4), the entry "70%" shall be substituted;

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(19) in Chapter 42, in sub-heading No. 4201-90, for the entry in column (4), the entry "35%" shall be substituted.

(20) in Chapter 43, in sub-heading No. 4301-00, for the entry in column (4), the entry "20%" shall be substituted.

(21) in Chapter 44,—

(*a*) in sub-heading No. 4404-00, for the entry in column (4), the entry "20%" shall be substituted;

(*b*) in sub-heading No. 4409-00, for the entry in column (4), the entry "25%" shall be substituted;

(*c*) in sub-heading No 4410-10,for the entry in column (4), the entry "35%" shall be substituted.

(22) in Chapter 45, in sub-heading No. 4501-00, for the entry in column (4), the entry "20%" shall be substituted.

(23) in Chapter 48,—

(*a*) in sub-heading Nos. 4801-10, and 4801-90, for the entry in column (4), the entry "15%" shall be substituted;

(*b*) in sub-heading Nos. 4802-20, 4802-91, 4802-99, 4803-00, 4804-19, 4804-29, 4804-30, 4805-19, 4805-20, 4805-30, 4805-90, 4806-10, 4806-20, 4806-90, 4807-10, 4807-92, 4807-99, 4808-10, 4808-90, 4810-10, 4810-20, 4810-90, 4811-10 and 4811-20, for the entry in column (4), the entry "30%" shall be substituted;

(*c*) in sub-heading No. 4811-30, for the entry in column (4), the entry "40%" shall be substituted;

(*d*) in sub-heading No. 4811-40, for the entry in column (4), the entry "30%" shall be substituted;

(*e*) in sub-heading No. 4811-90, for the entry in column (4), the entry "40%" shall be substituted;

(*f*) in sub-heading Nos. 4812-00, 4813-00, 4814-00, 4817-00, 4818-00, 4819-90, 4820-00 4821-00, 4822-00, 4823-11, 4823-12, 4823-14 and 4823-19, for the entry in column (4), the entry "30%" shall be substituted.

(24) in Chapter 49, in sub-heading No. 4901-10, for the entry in column (4), the entry "20%" shall be substituted.

(25) in Chapter 51,—

(*a*) in sub-heading Nos. 5102-90 and 5105-00, for the entry in column (4), the entry "15%" shall be substituted.

(*b*) in sub-heading No. 5107-24, for the entry in column (4), the entry "3%" shall be substituted;

(*c*) in sub-heading No. 5107-39, for the entry in column (4), the entry "6%" shall be substituted;

(*d*) in sub-heading Nos. 5107-41 and 5107-42, for the entry in column (4), the entry "3%" shall be substituted;

(*e*) in sub-heading No. 5107-49, for the entry in column (4), the entry "10%" shall be substituted;

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(*f*) in sub-heading Nos. 5107-91 and 5107-92, for the entry in column (4), the entry "5%" shall be substituted;

(*g*) in sub-heading No. 5107-99, for the entry in column (4), the entry '12%' shall be substituted;

(*h*) in sub-heading No. 5108-00, for the entry in column (4), the entry "15%" shall be substituted.

(26) in Chapter 53,—

(*a*) in sub-heading No. 5301-31, for the entry in column (4), the entry "Rs. 15 per kilogram" shall be substituted;

(*b*) in sub-heading No. 5302-20, for the entry in column (4), the entry "Rs. 805 per tonne" shall be substituted;

(*c*) in sub-heading No. 5303-31, for the entry in column (4), the entry "Rs. 1-50 per kilograme" shall be substituted;

(*d*) in sub-heading No. 5304-00, for the entry in column (4), the entry "15%" shall be substituted;

(*e*) in sub-heading No. 5306-29, for the entry in column (4), the entry "Rs. 805 per tonne" shall be substituted.

(*f*) in sub-heading No. 5307-12, for the entry in column (4), the entry "10%" shall be substituted;

(*g*) in sub-heading No. 5308-00, for the entry in column (4), the entry "15%" shall be substituted;

(27) in Chapter 54,—

(*a*) in sub-heading No. 5401-10, for the entry in column (4), the entry "Rs. 11 per kilogram or 60% whichever is less" shall be substituted;

(*b*) in sub-heading No. 5401-20, for the entry in column (4), the entry "Rs. 2 per kilogram" shall be substituted;

(*c*) in sub-heading No. 5401-90, for the entry in column (4), the entry "Rs. 11 per kilogram or 60% whichever is less " shall be substituted;

(28) in Chapter 55,—

(*a*) in–sub heading Nos. 5503-12 and 5503-19, for the entry in column (4), the entry "Rs. 11 per kilogram or 60% whichever is less" shall be substituted;

(*b*) in sub-heading No. 5503-20, for the entry in column (4), "the entry Rs. 2 per kilogram" shall be substituted ;

(29) in Chapter 56,—

(*a*) in sub-heading Nos. 5601-00, 5602-10, 5602-90, 5603-00, 5604-00, 5605-90 and 5606-00, for the entry in column (4), the entry "15%" shall be substituted ;

(*b*) in sub-heading No. 5607-19, for the entry in column (4), the entry 'Rs. 805 per tonne" shall be substituted ;

(*c*) in sub-heading Nos. 5607-90, and 5608-00 for, the entry in column (4), the entry "15%" shall be substituted ;

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(30) in Chapter 57,—

(a) in sub-heading Nos. 5701-11 and 5701-12, for the entry in column (4), the entry "35%" shall be substituted ;

(b) in sub--heading No. 5702-20, for the entry in column (4), the entry "Rs. 805 per tonne" shall be substituted ;

(c) in sub-heading No. 5702-90, for the entry in column (4), the entry "35%" shall be substituted ;

(31) in Chapter 58,—

(a) in sub-heading No. 5801--20, for the entry in column (4), the entry "10%" shall be substituted ;

(b) in sub-heading No. 5801--90, for the entry in column (4), the entry "15%" shall be substituted ;

(c) in sub-heading Nos. 5802-12, 5802-19, and 5804-11, for the entry in column (4), the entry "10%" shall be substituted ;

(d) in sub-heading Nos. 5804-19 and 5804-90, for the entry in column (4), the entry "15%" shall be substituted ;

(e) in sub-heading No. 5805-19, for the entry in column (4), the entry "25% *plus* the duty for the time being leviable on base fabrics if not already paid" shall be substituted ;

(f) in sub-heading Nos. 5806-10 and 5806-90, for the entry in column (4), the entry "15%" shall be substituted ;

(32) in Chapter 59,—

(a) in sub-heading Nos. 5903-19, 5903-29 and 5903-99, for the entry in column (4) the entry "35%" *plus* Rs. 15 per square metre *plus* the duty for the time being leviable on base fabrics, if not already paid" shall be substituted ;

(b) in sub-heading No. 5904-10, for the entry in column (4), the entry "35%" shall be substituted ;

(c) in sub-heading No. 5904-20, for the entry in column (4), the entry "30%" shall be substituted ;

(d) in sub-heading No. 5904-90, for the entry in column (4), the entry "35%" shall be substituted ;

(e) in sub-heading No. 5905-90, for the entry in column (4), the entry "15%" shall be substituted ;

(f) in sub-heading No. 5906-11, for the entry in column (4), the entry "35%" *plus* the duty for the time being leviable on base fabrics, under Chapter 52, if not already paid" shall be substituted ;

(g) in sub-heading No. 5906-12, for the entry in column (4), the entry ,'35% *plus* the duty for the time being leviable on base fabrics, under Chapter 54, or 55, as the case may be, if not already paid" shall be substituted ;

(h) in sub-heading No. 5906-19, for the entry in column (4), the entry "35%" *plus* the duty for the time being leviable on base fabrics, if not already paid" shall be substituted ;

(i) in sub-heading No. 5906.90 for the entry in column (4), the entry "35% shall be substituted.

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(j) in sub-heading No. 5907-00, for the entry in column (4), the entry "15%" shall be substituted ;

(k) in sub-heading No. 5908-00, for the entry in column (4), the entry "35%" shall be substituted ;

(l) in sub-heading No. 5909-00, for the entry in column (4), the entry "15%" shall be substituted ;

(33) in Chapter 60,–

(a) in sub-heading No. 6001-11, for the entry in column (4), the entry "10%" shall be substituted ;

(b) in sub-heading No. 6001-19, for the entry in column (4), the entry "15%" shall be substituted ;

(34) in Chapter 62, in sub-heading No. 6202-00, for the entry in column (4), the entry "15%" shall be substituted ;

(35) in Chapter 63, in sub-heading No. 6301-00, for the entry in column (4), the entry "15%" shall be substituted ;

(36) in Chapter 68,—

(a) in sub-heading Nos. 6801-10 and 6802-00, for the entry in column (4), the entry "25%" shall be substituted ;

(b) in sub-heading Nos. 6804-10, 6804-20, 6804-30 and 6804-90, for the entry in column (4), the entry "30%" shall be substituted ;

(c) in sub-heading No. 6805-90, for the entry in column (4), the entry "20%" shall be substituted ;

(d) in sub-heading No. 6806-90, for the entry in column (4), the entry "25%" shall be substituted ;

(e) in sub-heading No. 6807-00, for the entry in column (4), the entry "35%" shall be substituted ;

(37) in Chapter 69,—

(a) in sub-heading Nos. 6901-00, 6902-10, 6902-90, 6903-90 and 6904-10, for the entry in column (4), the entry "20%" shall be substituted ;

(b) in sub-heading No. 6905-00, for the entry in column (4), the entry "35%" shall be substituted ;

(c) in sub-heading No. 6906-10, for the entry in column (4), the entry "55%" shall be substituted ;

(d) in sub-heading No. 6906.90, for the entry in column (4), the entry "35%" shall be substitauted;

(e) in sub-heading No. 6908.10, for the entry in column (4), the entry "45%" shall be substituted ;

(f) in sub-heading No. 6909.10 for the entry in column (4), the entry "25%" shall be susbstituted ;

(g) in sub-heading No. 6909.20, for the entry in column (4), the entry "45%" shall be substituted ;

) in sub-heading Nos. 6909.90 and 6911.00, for the entry in column (4), the entry "35%" shall be substituted;

(*38*) in Chapter 71, in sub-heading Nos. 7101.80 and 7101.90, for the entry in column (4), the entry "20%" shall be substituted.

(*39*) in Chapter 72, after Note. 3, the following shall be inserted, namely:—

"4. In relation to flat-rolled products of this Chapter the process of hardening or tempering shall amount to manufacture.".

(*40*) in Chaptr 73,—

(*a*) in sub-heading Nos. 7318.10, and 7318.21 for the entry in column (4), the entry "15%" shall be substituted;

(*b*) in sub-heading Nos. 7321.10 and 7321.20 for the entry in column (4) the entry "30%" shall be substituted;

(*c*) in sub-heading No, 7321.90, for the entry in column (4), the entry "15%" shall be substituted.

(*41*) in Chapter 74, in sub-heading Nos. 7401.10, 7401.20, 7402.00, 7403.11, 7403.12, 7403.13, 7403.19, 7403.21, 7403.22, 7403.23, 7403.29, 7404.00, 7405.00, 7407.11, 7407.12, 7407.29, 7408.11, 7408.19, 7408.21, 7408.29, 7409.10, 7409.20, 7409.30, 7409.40, 7409.90, 7410.11, 7410.12, 7410.21, 7410.22, 7413.00 7415.31, 7415.32 and 7405.39, for the entry in colum (4), the entry "15'%" sffall be substituted.

(*42*) in Chapter 76, for the entry in coloum (4) occuring aginst all the sub-heading Nos., the entry "25%" shall be substituted.

(*43*) in Chapter 78, for the entry in column (4) occuring against all the sub-heading Nos. the entry "15%" sall be substituted.

(*44*) in Chapter 79, for the entry in column (4) occuring againstall the sub-heading Nos., the entry "15%" shall be substituted.

(*45*) in Chapter 82, for the entry incolumn (4) occuring against all the sub-heading Nos., the entry "15%" shall be substituted.

(*46*) in Chapter 83,—

(*a*) in sub-heading No. 8302.00, for the entry in column (4), the entry "30%" shall be substituted;

(*b*) in sub-heading No. 8303.00, for the entry in column (4), the entry "40%" shall be substituted;

(*c*) in sub-heading No. 8304.00, for the entry in column (4), the entry "30%" shall be substituted ;

(*d*) in sub-heading No. 8307.00, for the entry in column (4), the entry "20%" shall be substituted;

(*e*) in sub-heading Nos. 8309.10 and 8309.20, for the entry in column (4), the entry "6 paise each" shall be substituted;

(*f*) in sub-heading No. 8310.00, for the entry in column (4), the entry "20%" shall be substituted.

(*47*) in Chapter 84,—

(*a*) in sub-heading Nos. 8401.00, 8402.00, 8403.00 ,8404.00, 8405,.00 and 8406.00 for the entry in column (4), in entry "10%" shall be substituted;

(*b*) in sub-heading No. 8409.00, for the entry in column (4), the entry shall be substituted ;

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(*c*) in sub-heading Nos. 8410, 00 8411.00, 8412.00 8413.00 8414.80 84116.00 8417.00, 8420.00 and 8421.00,for tne entry in column (*4*), the entry "10%" shall be substituted ;

(*d*) in sub-heading No. 8422.90, for the entry in column (*4*), the entry '25"% shall be substituted;

(*e*) in sub-heading No. 8423.00 for the entry in column (*4*), the entry "20%" shall be substituted ;

(*f*) in sub-heading Nos. 8424.00, 8425.00 and 8426.00 for the entry in column (*4*), the entry "10%" shall be substituted ;

(*g*) in sub-heading No. 8427.00, for the entry in column (*4*), the entry "25%" shall be substituted;

(*h*) in sub-heading No. 8428-00. for the entry in column (*4*), the entry "20%" shall be substituted;

(*i*) in sub-heading Nos. 8429.00 and 8430.00, for the entry in column *4* the entry "10%" shall be substituted.

(*j*) in sub-heading No. 8431.00, for the entry in column (*4*), the entry "25%" shall be substituted.

(k) in sub-heading Nos. 8432.00, 8433.00, 8434.00, 8435.00, 8436.00, 8437.00, 8438.00, 8439.00, 8440,00, 8441.00, 8442.00, 8443.00, 8444,00, 8445.00, 8446 .00 8447.00, 8448.00, 8449.00, 8451.00, 8453.00, 8454.00, 8455.00, 8456.00, 8457.00, 8458.00, 8459.00, 8460.00, 8461.00, 8462.00, 8463.00, 8464.00, 8465.00, and 8466.00, for the entry in column (4), the entry "10%" shall be substituted;

(*l*) in sub-heading No. 8469.00, for the entry in column (*4*), the entry "25% *plus* Rs. 5,000 per machine" shall be substituted.

(*m*) in sub-heading Nos. 8470.00, 8472.00 and 8473.00 for the entry in column (4), the entry "25%" shall be substituted.

(*n*) in sub-heading Nos. 8474.00 and 8475.00 for the entry in column (*4*), the entry "10%" shall be substituted.

(*o*) in sub-heading Nos. 8476.19 and 8476.19, for the entry in column (*4*), the entry "25%" shall be substituted.

(*p*) in sub-heading Nos. 8477.00, 8478.00, 8479.00 and 8480.00 for the entry in column (4), the entry "10%" shall be substituted.

(*q*) in sub-heading Nos. 8481.99, 8485.10 and 8485.90, for th entry in column (4), the entry' 20%" shall be substituted.

(*48*) in Chapter 85,—

(*a*) in sub-heading No. 8501.00 for the entry in column (*4*), the entry "10%" shall be substituted;

(*b*) in sub-heading No. 8502.00, for the entry in column (*4*), the entry "20%" shall be substituted;

(*c*) in sub-heading No. 8506.00, for the entry in column (*4*), the entry "40%" shall be substituted.

(*d*) in sub-heading No. 8510.00, for the entry in column (*4*), the entry "35%" shall be substituted;

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(*e*) in sub-heading Nos. 8511.00 and 8512.00, for the entry in column (*4*), the entry "25%" shall be substituted;

)*f*) in sub-heading Nos. 8514.00 and 8515.00 for the entry in column (*4*), the entry "10%" shall be substituted;

(g) in sub-heading No. 8516.00, for the entry in column (*4*) the entry "35%" shall be substituted;

(*h*) in sub-heading No. 8533.00 for the entry in column (*4*), the entry "25%" shall be substituted;

(i) in sub heading Nos. 8537.00 and 8538.00, for the entry in column (*4*), the entry "20% shall be susbstituted;

(j) in sub heading No. 8539.00, for the entry in column (*4*), the entry "40% *plus* Rs. 10 per lamp" bo shall substituted;

(k) in sub-heading Nos. 8540.90, 8541.00 and 8542.00, for the entry in column (*4*), the entry "20%" shall be substituted;

(l) in sub-heading No. 8544.00 for the entry in column (*4*), the entry "35%" shall be substituted;

(*m*) in sub-heading No. 8545.00 for the entry in column (*4*), the entry "25%" shall be substituted;

(*n*) in sub-heading No. 8546.00, for the entry in column (*4*), the entry "40%" shall be substituted;

(*o*) in sub-heading Nos. 8547.00 and 8548.00, for the entry in column (*4*), the entry "20%" shall be substituted.

(*49*) in Chapter 87,—

(*a*) in sub-heading Nos. 8702.00, 8704.00, 8706.20 and 8706.40, for the entry in column (*4*), the entry "60%" shall be substituted;

(*b*) in sub-heading No. 8708.00, for the entry in column (4), the entry "25%" shall be substituted.

(*50*) in Chapter 88, for the entry in column (*4*) occurring against all the sub-heading Nos. the entry "20%" shall be substituted.

(*51*) in Chapter 89,—

(*a*) for the entry in column (*4*) occurring against all the sub-heading Nos .(except sub-heading No. 8908.00), the entry "20%" shall be substituted;

(*b*) in sub-heading No. 8908.00, for the entry in column (*4*), the entry "Rs. 1,000 per Light Displacement Tonnage" shall be substituted.

(*52*) in Chapter 90,—

(*a*) in sub-heading Nos. 9001.00, 9002.00, 9003.90 and 9005.00 for the entry in column (*4*), the entry "20%" shall be substituted;

(*b*) in sub-heading No. 9006.00, for the entry in column (*4*), the entry "35%" shall be substituted;

(*c*) in sub-heading No. 9009.00, for the entry in column (*4*), the entry "25%" shall be substituted;

(*d*) in sub-heading No. 9010.00, for the entry in column (*4*), the entry "20%" shall be substituted;

(*e*) in sub-heading Nos. 9032.11 and 9032.91, for the entry in column (*4*), the entry "125%" shall be substituted.

(*53*) in Chapter 91, in sub-heading No. 9106.00, for the entry in column (*4*), the entry "25%" shall be substituted.

(*54*) in Chapter 93, for the entry in column (*4*) occurring against all the sub-heading Nos. (except sub-heading No. 9301.00), the entry "20%" shall be substituted.

(*55*) in Chapter 94,—

(*a*) in sub-heading No. 9401.00, for the entry in column (*4*), the entry "30%" shall be substituted;

(*b*) in sub-heading No. 9403.00, for the entry in column (*4*), the entry "35%" shall be substituted;

(*c*) in sub-heading No. 9405.00, for the entry in column (*4*), the entry "40%" shall be substituted.

(*56*) in Chapter 95, in sub-heading No. 9504.00, for the entry in column (*4*), the entry "35%" shall be substituted.

(*57*) in Chapter 96,—

(*a*) in sub-heading Nos. 9601.00, 9602.00 and 9605.90, for the entry in column (*4*), the entry "20%" shall be substituted;

(*b*) in sub-heading No. 9612.00 for the entry in column (*4*), the entry "30%" shall be substituted;

(*c*) in sub-heading No. 9613.10, for the entry in column (*4*), the entry "Rs. 5 per lighter" shall be substituted;

(*d*) in sub-heading Nos. 9614.00, 9615.00, 9616.00 and 9618.00, for the entry in column (*4*), the entry "20%" shall be substituted.

SHRI K. L. MOHANPURIA,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

B. K. SHAH,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, 22nd September, 1993.

No. RP/111/93/40/93/Research.—The following Act of Parliament is re-published for general information :

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 18th May, 1993/Vaisakha 28, 1915 (Saka)

The following Act of Parliament received the assent of the President on the 18th May, 1993 and is hereby published for general information :

THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) ACT, 1993.

[Act No. 40 of 1993]

[18th May, 1993]

AN ACT

further to amend the Code of Criminal Procedure, 1973.

Be it enacted by Parliament in the Forty-fourth Year of the Republic of India as follows :—

Short title and commencement.

1. (*1*) This Act may be called the Code of Criminal Procedure (Amendment) Act, 1993.

(*2*) It shall come into force on such date as the Central Government may, by notification, in the Official Gazette, appoint.

Insertion of new Chapter VIIA.

2 of 1974.

2. In the Code of Criminal Procedure, 1973, after Chapter VII, the following Chapter shall be inserted, namely:—

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‘CHAPTER VIIA

RECIPROCAL ARRANGEMENTS FOR ASSISTANCE IN CERTAIN MATTERS AND PROCEDURE FOR ATTACHMENT AND FOREFEITURE OF PROPERTY

Definitions.

105A. In this Chapter, unless the context otherwise requires,—

(*a*) “contracting State” means any country or place outside India in respect of which arrangements have been made by the Central Government with the Government of such country through a treaty or otherwise ;

(*b*) “identifying” includes establishment of a proof that the property was derived from, or used in the commission of an offence ;

(*c*) “proceeds of crime” means any property derived or obtained directly or indirectly, by any person as a result of criminal activity (including crime involving currency transfers) or the value of any such property ;

(*d*) “property” means property and assets of every description whether corporeal or incorporeal, movable or immovable, tangible or intangible and deeds and instruments evidencing title to, or interest in, such property or assets derived or used in the commission of an offence and includes property obtained through proceeds of crime ;

(*e*) “tracing” means determining the nature, source, disposition, movement, title or ownership of property .

Assistance in securing transfer of persons.

105B. (*1*) Where a Court in India, in relation to a criminal matter, desires, that a warrant for arrest of any person to attend or produce a document or other thing issued by it shall be executed in any place in a contracting State, it shall sent such, warrant in duplicate in such form to such Court, Judge or Magistrate through such authrotiy, as the Central Government may, by notification, specify in this behalf and that Court, Judge or Magistrate, as the case may be, shall cause the same to be executed.

(*2*) Notwithstanding anything contained in this Code, if, in the course of an investigation or any inquiry into an offence, an application is made by the investigating officer or any officer superior in rank to the investigating officer that the attendance of a person who is in any place in a contracting State is required in connection with such investigation or inquiry and the Court is satisfied that such attendance is so required it shall issue a summons or warrant in, duplicate against the said person to such Court, Judge or Magistrate, in such form as the Central Government may, by notification, specify in this behalf, to cause the same to be served or executed.

(*3*) Where a Court in India, in relation to a criminal matter, has received a warrant for arrest of any person requiring him to attend or attend and produce a document or other thing in that Court or before any other investigating agency, issued by a Court, Judge or Magistrate in a contracting State, the same shall be executed as if it is the warrant received by it from another Court in India for execution within its local limits.

(*4*) Where a person transferred to a contracting State pursuant to sub-section (*3*) is a prisoner in India, the Court in India or the Central Government may impose such conditions as that Court or Government deems fit.

(*5*) Where the person transferred to India pursuant to sub-section (*1*) or sub-section (*2*) is a prisoner, in a contracting State, the Court in India shall ensure that the conditions subject to which the prisoner is transferred to India are complied with and such prisoner shall be kept in such custody subject to such conditions as the Central Government may direct in writing.

Assistance in relation to orders of attachment or forfeiture of property.

105C. (*1*) Where a Court in India has reasonable grounds to believe that any property obtained by any person is derived or obtained, directly or indirectly, by such person from the commission of an offence, it may make an order of attachment or forfeiture of such property, as it may deem fit under the provisions of sections 105D to 105J (both inclusive).

(*2*) Where the Court has made an order for attachment or forfeiture of any property under sub-section (*1*), and such property is suspected to be in a contracting State, the Court may issue a letter of request to a Court or an authority in the contracting State for execution of such order.

(*3*) Where a letter of request is received by the Central Government from a Court or an authority in a contracting State requesting attachment or forfeiture of the property in India, derived or obtained, directly or indirectly by any person from the commission of an offence committed in that contracting State, the Central Government may forward such letter of request to the Court, as it thinks fit, for execution in accordance with the provisions of sections 105D to 105J (both inclusive) or, as the case may be, any other law for the time being in force.

Identifying unlawfully acquired property

105D. (*1*) The Court shall, under sub-section (*1*), or on receipt of a letter of request under sub-section (*3*) of section 105C, direct any police officer not below the rank of Sub-Inspector of Police to take all steps necessary for tracing and identifying such property.

(*2*) The steps referred to in sub-section (*1*) may include any inquiry investigation or survey in respect of any person, place, property, assets, documents, books of account in any bank or public financial institutions or any other relevant matters.

(*3*) Any inquiry, investigation or survey referred to in sub-section (*2*) shall be carried out by an officer mentioned in sub-section (*1*) in accordance with such directions issued by the said Court in this behalf.

Seizure or attachment of property.

105E. (*1*) Where any officer conducting an inquiry or investigation under section 105D has a reason to believe that any property in relation to which such inquiry or investigation is being conducted is likely to be concealed, transferred or dealt with in any manner which will result in disposal of such property, he may make an order for seizing such property and where it is not practicable to seize such property, he may make an order of attachment directing that such property shall not be transferred or otherwise dealt with except with the prior permission of the officer making such order, and a copy of such order shall be served on the person concerned.

(*2*) Any order made under sub-section (*1*) shall have no effect unless the said order is confirmed by an order of the said Court, within a period of thirty days of its being made.

Management of properties seized or forfeited under this Chapter.

105F. (*1*) The Court may appoint the District Magistrate of the area where the property is situated, or any other officer that may be nominated by the District Magistrate, to perform the functions of an Administrator of such proprty.

(*2*) The Administrator appointed under sub-section (*1*) shall receive and manage the property in relation to which the order has been made under sub-section (*1*) of section 105E or under section 105H in such manner and subject to such conditions as may be specified by the Central Government.

(*3*) The Administrator shall also take such measures, as the Central Government may direct, to dispose of the property which is forfeited to the Central Government.

Notice of forfeiture of property.

105G. (*1*) If as a result of the inquiry, investigation or survey under section 105D, the Court has reason to believe that all or any of such properties are proceeds of crime, it may serve a notice upon such person (hereinafter referred to as the person affected) calling upon him within a period of thrity days specified in the notice to

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indicate the source of income, earnings or assets, out of which or by means of which he has acquired such property, the evidence on which he relies and other relevant information and particulars, and to show cause why all or any of such properties, as the case may be, should not be declared to be proceeds of crime and forfeited to the Central Government.

(2) Where a notice under sub-section (*1*) to any person specifieies any property as being held on behalf on behalf of such person by any other person, a copy of the notice shall also be served upon such other persion.

Forefeiture of property in certain cases.

105H. (1) The Court may, after considering, the explanation, if any, to the show-cause notice Issued under section 105G and the material available before it and after giving the person affected (and in a case where the person affected holds any property specified in the notice through any other person, to such other person also) a reasonable opportunity of being heard, by order, record a finding whether all or any of the properties in question are proceeds of crime:

Provided that if the person affected (and in a case where the person affected holds any property specified in the notice through any other person such other person also) does not appear before the Court or represent his case before it within a period of thirty days specified in the show-cause notice, the Court may proceed to record a finding under this sub-section *ex parte* on the basis of evidence available before it.

(2) Where the Court is satisfied that some of the properties referred to in the show-cause notice are proceeds of crime but it is not possible to identify specifically such properties, then, it shall be lawful for the Court to specify the properties which, to the best of its judgement, are proceeds of crime and record a finding accordingly under sub-section (1).

(3) Where the Court records a finding under this section to the effect that any property is proceeds of crime, such property shall stand forfeited to the Central Government free from all encumbrances.

(4) Where any shares in a company stand forfeited to the Central Government under this section, then, the company, shall, notwithstanding anything contained in the Companies Act, 1956 or the articles of association of the company forthwith register the Central Government as the transferee of such shares. **1 of 1956**

Fine in lieu of forfeiture.

105-I. (1) Where the Court makes a declaration that any property stands forfeited to the Central Government under section 105H and it is a case where the source of only a part of such property has not been proved to the satisfaction of the Court, it shall make an order giving an option to the person affected to pay, in lieu of forfeiture, a fine equal to the market value of such part.

(2) Before making an order imposing a fine under sub-section (1), the person affected shall be given a reasonable opportunity of being heard.

(3) Where the person affected pays the fine due under sub-section (1), within such time as may be allowed in that behalf the Court may, by order revoke, the declaration of forfeiture under section 105H and thereupon such property shall stand released.

Certain transfers to be null and void.

105J. Where after the making of an order under sub-section(1) of section 105E or the issue of a notice under section 105G, any property referred to in the said order or notice is transferred by any mode whatsoever such transfers shall, for the purposes of the proceedings under this Chapter, be ignored and if such property is subsequently forefeited to the Central Government under section 105H, then, the transfer of such property shall be deemed to be null and void.

Procedure in respect of letter request.

105K, Every letter of request summons or warrant, received by the Central Government from, and every letter of request, summons or warrant, to be transmitted to a contracting State under this Chapter shall be transmitted to a contracting State or, as the case may be, sent to the concerned Court in India in such form and in such manner as the Central Government may, by notification, specify in this behalf.

Application of this Chapter.

105L. The Central Government may, by notification in the Official Gazette, direct that the application of this Chapter in relation to a contracting State with which reciprocal arrangements have been made, shall be subject to such conditions, exceptions or qualifications as are specified in the said notification".

SHRI K. L. MOHANPURIA,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

B. K. SHAH,
Secretary to Government.

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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

GOVERNMENT OF GUJARAT

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, Dated the 15th September, 1993.

No. RP/98/93/24/93/Research.—The following Act of Parliament is re-published for general information :

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 2nd April, 1993/Chaitra 12, 1915 (Saka)

The following Act of Parliament received the assent of the President on the 2nd April, 1993 and is hereby published for general information :

THE NATIONAL THERMAL POWER CORPORATION LIMITED, THE NATIONAL HYDROELECTRIC POWER CORPORATION LIMITED AND THE NORTH-EASTERN ELECTRIC POWER CORPORATION LIMITED (ACQUISITION AND TRANSFER OF POWER TRANSMISSION SYSTEMS) ACT, 1993.

[Act No. 24 of 1993] **[2nd April, 1993]**

AN ACT

to provide in the public interest for the acquisition and transfer of the power transmission systems of the three companies and the right, title and interest of those companies in the power transmission system situated in different parts of India, with a view to developing the National Power Grid to ensure transmission of power, within and across the different regions of India, on a more scientific, efficient and economic basis and for matters connected therewith or incidental thereto.

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BE it enacted by Parliament in the Forty-fourth Year of the Republic of India as follows :—

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (*1*) This Act may be called the National Thermal Power Corporation Limited, the National Hydroelectric Power Corporation Limited and the North-Eastern Electric Power Corporation Limited (Acquisition and Transfer of Power Transmission Systems) Act, 1993.

(*2*) It extends to the whole of India except the State of Jammu and Kashmir.

(*3*) The provisions of sections 8 to 11 and sections 13 to 16 shall be deemed to have come in to force on the 8th day of January, 1993 and the remaining provisions of this Act shall be deemed to have come into force on the 1st day of April, 1992 and any reference to the commencement of this Act in any provision of this Act shall be construed as a reference to the commencement of that provision.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "appointed day" means the 1st day of April, 1992;

(*b*) "associated personnel" means the employees of each of the three companies associated with its power transmission system;

(*c*) "Corporation' 'means the Power Grid Corporation of India Limited, being a company within the meaning of the Companies Act, 1956 and having its registered office at Hemkunt Chambers, 89, Nehru Place, New Delhi,-110019;

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(*d*) "notification" means a notification published in the Official Gazette;

(*e*) "power transmission system", in relation to each company specified in the First Schedule, means the main transmission lines [including extra high voltage alternative current (EHVAC) lines and high voltage direct current (HVDC) lines] and sub-stations owned by each such company;

(*f*) "prescribed" means prescribed by rules made under this Act;

(*g*) "three companies" means the companies specified in the First Schedule;

(*h*) words and expressions used herein and not defined but defined in the Electricity (Supply) Act, 1948, or, as the case may be, the Companies Act, 1956 shall have the meanings, respectively, assigned to them in those Acts.

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CHAPTER II

ACQUISITION AND TRANSFER OF POWERS TRANSMISSION SYSTEM

Acquisition of rights of three companies in relation to the power transmission systems.

3. (*1*) On the appointed day, the power transmission system and the right, title and interest of each of the three companies in relation to its power transmission system shall, by virtue of this Act, be deemed to have been transferred to, and vested in, the Central Government.

(*2*) The power transmission systems vested in the Central Government by virtue of sub-section (*1*) shall, immediately after they had so vested, be deemed to have been transferred to, and vested in, the Corporation.

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General effect of vesting.

4. (*1*) The power transmission system shall be deemed to include all assets, rights, leaseholds, powers, authorities and privileges and all property, movable and immovable, relating to such system including lands, buildings, workshops, projects (whether complete or at any stage of completion or planning), stores, spares, instruments, machinery and equipment, construction equipment, unutilised long-term and short-term loans and all other rights and interests in, or arising out of, such property as were, immediately before the appointed day, in the ownership, possession, power or control of the three companies and all books of account, registers and all other documents of whatever nature relating thereto but shall be deemed not to include—

(*a*) book debts due to the three companies, immediately before the appointed day;

(*b*) cash balances and bank balances as on the appointed day;

(*c*) income and expenditure on revenue account relating to any period before the appointed day.

Explanation.—For the removal of doubts, it is hereby declared that rights in relation to the power transmission system of each of the three companies which have been transferred to, and vested in, the Corporation under sub-section (*2*) of section 3 and this sub-section shall include the right to collect transmission charges for transmission of power and any monies collected on or after the appointed day by any of the three companies as transmission charges (whether shown separately or not) shall be payable by such company to the Corporation.

(*2*) Unless otherwise expressly provided by this Act, all deeds, bonds, guarantees (other than guarantees given by the Government of India), agreements, powers of attorney, grants of legal representation and other instruments of whatever nature in relation to the power transmission system of each of the three companies, subsisting or having effect immediately before the appointed day, and to which each of the three companies is a party or which are in favour of any of the said companies shall be of as full force and effect against or in favour of the Corporation and may be or acted upon as fully and effectually as if in the place of the concerned company, the Corporation had been a party thereto or as if they had been issued in favour of the Corporation.

(*3*) If, on the 8th day of January, 1993 any suit, appeal or other proceeding of whatever nature, in relation to any property or assets which have been transferred to, and vested in, the Corporation under sub-section (*2*) of section 3, instituted or preferred by or against any of the three companies was pending, the same shall not abate, be discontinued or be, in any way, prejudicially affected by reason of the transfer of the power transmission system of that company or of anything contained in this Act, but the suit, appeal or other proceeding may be continued, prosecuted or enforced, subject to the provisions of sub-section (*1*) of section 5, by or against the Corporation.

Corporation to be liable for certain prior liabilities.

5. (*1*) Subject to the provisions of sub-section (*2*), every liability of each of the three companies in relation to its power transmission system, in respect of any period prior to the appointed day, which has been transferred to, and vested in the Corporation under sub-section (*2*) of section 3, shall be the liability of the Corporation and shall be enforceable against the Corporation and not against the company:

Provided that nothing contained in this sub-section shall apply to—

(*a*) the income and expenditure on revenue account relating to any period before the appointed day and received or, as the case may be, incurred by any of the three companies on or after the appointed day;

(*b*) arrears of depreciation, regarding contingent liabilities on capital account relating to any period before the appointed day, arising on account of the decision of any court, tribunal or other authority.

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(*2*) Where any repayment of a loan or interest or both, has been made, on or after the appointed day, by any of the three companies to any lending agency, such repayment shall be deemed to have been made by the Corporation and the amount of such repayment shall be reimbursed by the Corporation to the concerned company on adjustment of transmission charges or any other amount due to the Corporation from the concerned company.

Corporation to be lessee or tenant.

6. (*1*) Where any property is held by any of the three companies in relation to its power transmission system under any lease or right of tenancy, the Corporation shall, on and from the appointed day, be deemed to have become the lessee or tenant, as the case may be, in respect of such property as if the lease or tenancy in relation to such property had been granted to the Corporation and thereupon all the rights under such lease or tenancy shall be deemed to have been transferred to, and vested in, the Corporation.

(*2*) On the expiry of the term of any lease or tenancy referred to in sub-section (*1*), such lease or tenancy shall, if so desired by the Corporation, be renewed on the same terms and conditions on which the lease or tenancy was held by any of the three companies immediately before the appointed day.

Removal of doubts.

7. (*1*) For the removal of doubts, it is hereby declared that the provisions of sections 3, 4, 5 and 6 shall apply to the extent to which any property appertains to the business relating to the power transmission system carried on by the three companies and to the rights and powers acquired, and to debts, liabilities and obligations incurred, and to contracts, agreements and other instruments made by any of the three companies and to legal proceedings relating to those matters pending in any court, tribunal or other authority in India.

(*2*) If any question arises as to whether any property appertained, on the appointed day, to any business of any of the three companies in relation to its power transmission system, or whether any rights, powers, debts, liabilities or obligations were acquired or incurred or any contract, agreement or other instrument was made by any of the three companies for the purposes of its said business or whether any document relates to those purposes, the question shall be referred to the Central Government which shall, after giving a reasonable opportunity of being heard to the persons interested in the matter' decide it in such manner as it may think fit.

Payment of amount.

8. (*1*) For the transfer to, and vesting in, the Central Government under-sections 3 and 4, of the power transmission system and the right title and interest of each of the three companies in relation to its power transmission system, there shall be paid, in the prescribed manner, by the Central Government to each of the three companies such amounts as is equal to the book value of all the assets and properties after deduction of liabilities (other than contingent liabilities) given in the audited statement of accounts of each of the three companies as on the 31st day of March, 1992.

(*2*) For the transfer to, and vesting in, the Corporation under sub-section (*2*) of section 3 of the power transmission system and the right, title and interest of each of the three companies in relation to its power transmission system, there shall be paid, in the prescribed manner, by the Corporation to the Central Government, the amount which is paid by that Government to the three companies under sub-section (*1*).

(*3*) In case of any dispute relating to the nature of any asset, property or liability or the amount payable under sub-section (*1*), the dispute shall be referred by the Central Government to such authority as it may appoint and the decision of that authority in the matter shall be final.

CHAPTER III

DELIVERY OF ASSETS, ETC., TO THE CORPORATION

Duty of persons to account for assets, etc., in their possession.

9. (*1*) Any person who has, on the date of commencement of this Act, in his possession or under his control, any assets, books and any other documents relating to the power transmission system which has been transferred to, and vested in, the Corporation under sub-section (*2*) of section 3, shall be liable to account for the said assets, books and documents to the Corporation and shall deliver them up to the Corporation or to such person or persons as the Corporation may specify in this behalf.

(*2*) The Corporation may take or cause to be taken all necessary steps for securing possession of the power transmission system which has been transferred to, and vested in, the Corporation under this Act.

(*3*) Each of the three companies shall, within such period as the Corporation may allow in this behalf, furnish to the Corporation a complete inventory of all its property and assets as on the appointed day pertained to its power transmission system which has been transferred to and vested in, the Corporation under sub-section (*2*) of section 3.

CHAPTER IV

PROVISIONS RELATING TO ASSOCIATED PERSONNEL

Continuance of associated personnel.

10. (*1*) On the vesting of the power transmission system of the three companies in the Corporation, the associated personnel who have been, immediately on or before the appointed day, employed in any of the three companies and have not already become employees of the Corporation shall become, on and from the date of commencement of this Act, employees of the Corporation and shall hold office or service under the Corporation on the terms and conditions which are not in any way less favourable than those which would have been admissible to them if there had been no such vesting and shall continue to do so unless and until their employment under the Corporation is duly terminated or until their remuneration and other conditions of service are duly altered by the Corporation.

14 of 1947.

(*2*) Notwithstanding anything contained in the Industrial Disputes Act, 1947, or any other law for the time being in force, the transfer of the services of the associated personnel to the Corporation, shall not entitle such personnel to any compensation under this Act or any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority.

Provident fund and other funds.

11. (*1*) Where any of the three companies has established a provident fund or any other fund for the benefit of the persons employed by it, the monies relatable to the associated personnel who have already become employees of the Corporation or whose services have become transferred under this Act to the Corporation shall, out of the monies standing, on the date of transfer of the associated personnel, to the credit of such provident fund or other fund, stand transferred to, and vest in, the Corporation.

(*2*) The monies which stand transferred under sub-section (*1*) to the Corporation shall be dealt with by the Corporation in such manner as may be prescribed.

CHAPTER V

MISCELLANEOUS

Act to have overriding effect.

12. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law, other than this Act, or in any decree or order of any court, tribunal or other authority.

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13. Any person who,—

Penalties.

(*a*) having in his possession, custody or control any property forming part of the power transmission system of any of the three companies wrongfully withholds such property from the Corporation; or

(*b*) wrongfully obtains possession of, or retains, any property forming part of the power transmission system of any of the three companies; or

(*c*) wilfully withholds or fails to furnish to the Corporation or any person or body of persons specified by the Corporation, any document or inventory relating to the power transmission system of any of the three companies, which may be in his possession, custody or control; or

(*d*) fails to deliver to the Corporation or any person or body of persons specified by that Corporation, any assets, books of account, registers or other documents in his possession, custody or control relating to the power transmission system of any of the three companies,

shall be punishable with imprisonment for a term which may extend to two years and also with fine which may extend to ten thousand rupees.

Offences by companies.

14. (*1*) Where an offence punishable under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge and that he had exercised all due diligence to prevent the commission of such offence.

(*2*) Notwithstanding anything contained in sub-section (*1*), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(*a*) "company" means any body corporate and includes a firm or other association of individuals; and

(*b*) "director", in relation to a firm, means a partner in the firm.

Protection of action taken in good faith.

15. No suit, prosecution or other legal proceeding shall lie against the Central Government or the Corporation or any of the three companies or any officer of that Government, Corporation or company or any other person authorised by that Government, Corporation or company for anything which is in good faith done or intended to be done under this Act.

Power to make rules.

16. (*1*) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the manner in which the amount is to be paid under sub-section (*1*) or sub-section (*2*) of section 8;

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(b) the manner in which the monies in any provident fund or other fund, referred to in sub-section (2) of section 11, shall be dealt with;

(c) any other matter which is required to be, or may be, prescribed.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Repeal and saving.

Ord. 10 of 1993.

17. (1) The National Thermal Power Corporation Limited, the National Hydroelectric Power Corporation Limited and the North-Eastern Electric Power Corporation Limited (Acquisition and Transfer of Power Transmission Systems) Ordinance, 1993 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of this Act.

THE SCHEDULE

[*See* section 2(*e*) and (*g*)]

NAMES OF COMPANIES

1. The National Thermal Power Corporation Limited, a company incorporated and registered under the Companies Act, 1956 having its registered office in Core No. 7, SCOPE Complex, Lodhi Road, New Delhi-110 003.

2. The National Hydroelectric Power Corporation Limited, a company incorporated and registered under the Companies Act, 1956 having its registered office at Hemkunt Tower, 98, Nehru Place, New Delhi-110 019.

3. The North-Eastern Electric Power Corporation Limited, a company incorporated and registered under the Companies Act, 1956 having its registered office at Kharmalki Road, Shillong-793 001.

(Sd.) SHRI K. L. MOHANPURIA,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

B. K. SHAH,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

GOVERNMENT OF GUJARAT

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, 15th September, 1993.

No. RP/103/93/29/93/Research.—The following Act of Parliament is re-published for general information:

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 3rd April, 1993/Chaitra 13, 1915(Saka)

The following Act of Parliament received the assent of the President on the 2nd April, 1993 and is hereby published for general information;

THE FOREIGN EXCHANGE REGULATION (AMENDMENT) ACT, 1993

[Act No. 29 of 1993] **[2nd April, 1993]**

AN ACT

further to amend the Foreign Exchange Regulation Act, 1993.

Be it enacted by Parliament in the Forty-fourth Year of the Republic of India as follows:—

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Short title and commencement.

1. (*1*) This Act may be called the Foreign Exchange Regulation (Amendment) Act, 1993.

(*2*) It shall be deemed to have come into force on the 8th day of January, 1993.

Amendment of long title.

2. In the Foreign Exchange Regulation Act, 1973 (hereinafter referred to as the principal Act), in the long title, the words "and bullion" shall be omitted. 46 of 1973

Amendment of section 2.

3. In section 2 of the principal Act, clauses (*j*) and (*v*) shall be omitted.

Omission of sections 11 and 12.

4. Sections 11 and 12 of the principal Act shall be omitted.

Amendment of section 13.

5. In section 13 of the principal Act,—

(*a*) in sub-section (*1*), the words "any gold or silver or" shall be omitted;

(*b*) in sub-section (*2*), the words "gold, jewellery or precious stones or" shall be omitted.

Omission of sections 15 and 17.

6. Sections 15 and 17 of the principal Act shall be omitted.

Insertion of new section 18A.

7. After section 18 of the principal Act, the following section shall be inserted, namely:—

Payment for lease hire or Other arrangement.

"18A. No person shall, except with the general or special permission of the Reserve Bank, take or send out by land, sea or air, any goods from India to any place on lease or hire or under any arrangement other than sale or disposal in any other manner of such goods."

Amendment of section 19.

8. In section 19 of the principal Act,—

(*a*) in sub-section (1), clause (*c*) shall be omitted;

(*b*) in sub-section (4), clause (c) shall be omitted;

(*c*) for sub-sections (5) and (6), the following sub-sections shall be substituted, namely:—

"(5) Notwithstanding anything contained in any other law, no transfer of any share, bond or debenture of a company registered in India made by a person resident outside India or by a national of a foreign State to another person resident in India shall be valid unless such transfer is confirmed by the Reserve Bank on an application made to it in this behalf by the transferor or the transferee.

(6) If the Reserve Bank is of opinion that it is necessary or expedient in the public interest so to do, it may, by general or special permission, exempt any transfer referred to in sub-section (*5*) or any class of such transfers from the operation of the provisions of that sub-section, subject to such conditions, if any, as may be specified in such permission.".

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9. Sections 20 and 21 of the principal Act shall be omitted.

Omission of sections 20 and 21.

10. In section 22 of the principal Act, the words "The Central Government may, by notification in the Official Gazette, order that" shall be omitted.

Amendment of section 22.

11. Section 23 of the principal Act shall be omitted.

Omission of section 23.

12. In section 25 of the principal Act,—

Amendment of section 25.

(*a*) in sub-section (*1*), for the words "permission of the Reserve Bank", the words "general or special permission of the Reserve Bank" shall be substituted;

(*b*) sub-section (*3*) shall be omitted.

13. For section 26 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 26.

"26. Except with the general or special permission of the Central Government or the Reserve Bank, no person resident in India shall give a guarantee in respect of any debt or other obligation or liability—

Certain provisions as to guarantee in respect of debt or other obligation.

(*i*) of a person resident in India, and due or owing to a person resident outside India, or

(*ii*) of a person resident outside India."

14. Section 27 of the principal Act shall be omitted.

Omission of section 27.

15. In section 28 of the principal Act,—

Amendment of section 28.

(*a*) for sub-sections (1), (2) and (3), the following sub-sections shall be substituted, namely:—

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"(*1*) Without prejudice to the provisions of section 47 and notwithstanding anything contained in any other provision of this Act or the Companies Act, 1956, a person resident outside India (whether a citizen of India or not) or a person who is not a citizen of India but is resident in India, or a company (other than a banking company) which is not incorporated under any law in force in India or any branch of such company, shall not except with the general or special permission of the Reserve Bank, act, or accept appointment, as agent in India of any person or company in the trading or commercial transactions of such person or company. **1 of 1956**

(*2*) Where any such person or company (including its branch) as is referred to in sub-section (*1*) acts or accepts appointments as such agent without the permission of the Reserve Bank, such acting or appointment shall be void.

(*3*) Where any such person or company (including its branch) as is referred to in sub-section (*1*) acts as, or holds the appointment of, any such agent as is referred to in that sub-section at the commencement of this Act, such person or company (including its branch) shall, within a period of six months from such commencement or such further period as the Reserve Bank may allow in this behalf, make an application to the Reserve Bank in such form and containing such particulars as may be specified by the Reserve Bank for permission to continue to act as such agent.";

(*b*) in sub-section (*6*), the words "or appointment or, as the case may be, from permitting the use of any such trade mark" shall be omitted;

(*c*) in sub-section (7), the words "appointment or permission, as the case may be," shall be omitted;

(*d*) in the Explanation, clause (*d*) shall be omitted.

Amendment of section 29.

16. In section 29 of the principal Act,—

(*a*) in sub-section (*1*), the words "or in which the non-resident interest is more than forty per cent". shall be omitted;

(*b*) after sub-section (*1*), the following sub-section shall be inserted, namely:—

"(*1A*) A company (other than a banking company) in which the non-resident interest is more than forty per cent. shall not, except with the general or special permission of the Reserve Bank, carry on in India any activity relating to agriculture or plantation or acquire the whole or any part of any undertaking in India of any person or company carrying on any activity relating to agriculture or plantation or purchase the shares in such company.";

(*c*) after sub-section (*4*), for the *Explanation*, the following *Explanation* shall be substituted, namely:—

'*Explanation*.—For the purposes of this section,—

(*i*) "company" has the same meaning as in clause (b) of the *Explanation* to section 28;

(*ii*) "non-resident interest" means participation in the share capital by, or entitlement to the distributable profits of, any individual or company resident outside India, or any company not incorporated under any law in force in India, or any branch of such company whether resident outside India or not.'.

Amendment of section 30.

17. In section 30 of the principal Act, for sub-section (*1*), the following sub-section shall be substituted, namely:—

"(*1*) No national of a foreign State shall, without the previous permissin of the Reserve Bank, practise any profession or carry on any occupation, trade or business in India in a case where such national desires to acquire any foreign exchange (such foreign exchange being intended for remittance outside India) out of any moneys received by him in India by reason of the practising of such profession or the carrying on of such occupation, trade or business, as the case may be."

Amendment of section 31.

18. In section 31 of the principal Act, in sub-section (*1*), the words "or in which the non-resident interest is more than forty per cent." shall be omitted.

Omission of section 32.

19. Section 32 of the principal Act shall be omitted.

Amendment of sections 35,37,46 and 62.

5 of 1898.
2 of 1974.

20. In section 35, 37, 46 and 62 of the principal Act, for the words and figures "Code of Criminal Procedure, 1898", the words and figures "Code of Criminal Procedure, 1973" shall be substituted.

Amendment of section 41.

21. In section 41 of the principal Act,—

(*a*) for the words "one year", wherever they occur before the *Explanation*, the words "six months" shall be substituted ;

(*b*) in clause (*ii*), the following proviso shall be inserted at the end, namely:—

"Provided that the aforesaid period of six months may, for reasons to be recorded in writing, be extended by the Director of Enforcement for a further period not exceeding six months.";

(*c*) in the *Explanation*, the words "of one year" shall be omitted.

Amendment of section 42.

22. In section 42 of the principal Act,—

(*a*) in sub-section (*1*), in clause (*i*), after the word and figures "section 18", the words , figures and letter "or section 18A" shall be inserted;

(*b*) after sub-section (*3*), the following sub-sections shall be inserted, namely:—

"(*4*) Where any foreign currency, being the subject-matter of any investigation or proceeding referred to in the sub-section (*1*), is in the custody of an officer of Customs or of an officer of Enforcement or of a court, the Collector of Customs, the Director of Enforcement or, as the case may be, the court may, having regard to the security-risk involved in such custody, direct that the foreign currency be deposited in a bank in such manner as he or it may deem fit.

(*5*) Where any draft, cheque, (including traveller's cheque) or other instrument is to be encashed under sub-section (*1*) or any foreign currency is to be deposited in a bank under sub-section (*4*), the Collector of Customs, the Director of Enforcement or, as the case may be, the court, may prepare or cause to be prepared an inventory of such draft, cheque or other instrument or foreign currency containing such details relating to its description mark, numbers, country of origin and other particulars as may appear to be relevant to its identity in any proceeding under this Act and where the inventory is prepared or cause to be prepared by the Collector or the Director, the Collector or, as the case may be, the Director shall make an application to a Magistrate for the purpose of—

(*a*) certifying the correctness of the inventory so prepared; or

(*b*) taking, in the presence of the Magistrate photographs of such draft, cheque, other instrument or foreign currency, and certifying such photographs as true.

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(6) Where an application is made under sub-section (*5*), the Magistrate shall, as soon as may be, allow the application".

Amendment of section 43.

23. In section 43 of the principal Act, in sub-section (*5*), the words and figures "and to a person to whom a licence has been granted or deemed to have been granted under section 32" shall be omitted.

Amendment of section 45.

24. In section 45 of the principal Act,—

(*a*) in sub-section (*1*), for the words and figures 'Code of Criminal Procedure, 1898, any police officer not below the rank of a Sub-Inspector of Police", the words and figures "Code of Criminal Procedure, 1973 any police officer not below the rank of a Deputy Superintendent of Police" shall be substituted; 5 of 189 2 of 197

(*b*) in sub-section (*3*), for the words and figures "Code of Criminal Procedure, 1898", the words and figures "Code of Criminal Procedure, 1973" shall be substituted. 5 of 189 2 of 197

Amendment of section 50.

25. In section 50 of the principal Act, for the words and figures "section 18", the words, figures and letter "section 18, section 18A" shall be substituted.

Amendment of section 52.

26. In section 52 of the principal Act,—

(*a*) in sub-section (*2*), after the words "Any person aggrived by such order may," the words "on payment of such fee as may be prescribed and" shall be inserted;

(*b*) in sub-section (*6*), in the second proviso, for the words "fifty thousand rupees", the words "two lakhs and fifty thousand rupees" shall be substituted.

Amendment of section 53.

27. In section 53 of the principal Act, in sub-section (*2*), for the words and figures "sections 480 and 482 of the Code of Criminal Procedure, 1898", the words and figures "sections 345 and 346 of the Code of Criminal Procedure, 1973" shall be substituted. 5 of 189 2 of 197

Amendment of section 56.

28. In section 56 of the principal Act,—

(*a*) in sub-section (*1*), for the word and figures "section 18", the words, figures and letter "section 18, section 18A", shall be substituted;

(*b*) in sub-section (*2*) and (*3*), for the word and figures "section 18", wherever they occur, the words, figures and letter "section 18 or section 18A" shall be substituted;

(*c*) in sub-section (*6*), for the words and figures "the first proviso to section 188 of the Code of Criminal Procedure, 1898", the words and figures "the proviso to section 188 of the Code of Criminal Procedure, 1973" shall be substituted. 5 of 189 2 of 197

Amendment of section 58.

29. In section 58 of the principal Act,—

(*a*) in sub-section (*1*), for the words "be punishable with fine which may extend to two thousand rupees", the words "be punishable with imprisonment for a term which may extend to two years or with fine which may extend to ten thousand rupees or with both" shall be substituted

(*b*) in sub-section (*2*), for the words "two thousand rupees", the words "ten thousand rupees" shall be substituted.

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30. In section 61 of the principal Act, for sub-section (*1*), the following sub-section shall be substituted, namely:— Amendment of section 61.

2 of 1974. "(*1*) Notwithstanding anything contained in section 29 of the Code of Criminal Procedure, 1973, it shall be lawful for any metropolitan magistrate and for any magistrate of the first class to pass a sentence of imprisonment for a term exceeding three years or of fine exceeding five thousand rupees on any person convicted of an offence punishable under section 56.".

31. In section 64 of the principal Act, in sub-section (*1*), and (*2*) for the word and figures "section 18", the words, figures and letter "section 18, section 18A," shall be substituted. Amendment of section 64.

5 of 1898.
2 of 1974.

32. In section 66 of the principal Act, in sub-section (*1*), for the words and figures "section 562 of the Code of Criminal Procedure, 1898," the words and figures "section 360 of the Code of Criminal Procedure, 1973" shall be substituted. Amendment of section 66.

33. In section 67 of the principal Act, for the word and figures "section 18", the words, figures and letter "section 18, section 18A" shall be substituted. Amendment of section 67.

34. In section 71 of the principal Act, in sub-section (*3*), for the words "two hundred and fifty rupees", the words "fifteen thousand rupees" shall be substituted. Amendment of section 71.

35. In section 73 of the principal Act, in sub-section (*3*), the words brackets and figures "persons referred to in sub-section (*1*) of section 32" shall be omitted. Amendment of section 73.

36. After section 73 of the principal Act, the following section shall be inserted, namely:— sertion of new section 73A.

Penalty for contravention of direction of Reserve Bank or for failure to file returns.

"73A. Without prejudice to the provisions of section 50 and 51, where any authorised dealer contravenes any direction given by the Reserve Bank under this Act or fails to file any return as directed by the Reserve Bank, the Reserve Bank may, after giving a reasonable opportunity of being heard impose on the authorised dealer a penalty which may extend to ten thousand rupees and in the case of continuing contravention with an additional penalty which may extend to two thousand rupees for every day during which such contravention continues."

37. In section 74 of the principal Act, in clause (*i*), for the figures and word "9, 10 or 11", the figures and word "9 or 10" shall be substituted. Amendment of section 74.

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Amendment of section 79.

38. In section 79 of the principal Act, in sub-section (*2*), after clause (*d*), the following clause shall be inserted, namely:—

"(*dd*) prescribe the fee payable by a person preferring appeal to the Appellate Board under sub-section (*2*) of section 52;".

Repeal and savings.

39. (*1*) The Foreign Exchange Regulation (Amendment) Ordinance, 1993 is hereby repealed. **Ord. 9 of 1993.**

(*2*) Notwithstanding such repeal, anything done or any action taken under the said Ordinance so repealed, shall be deemed to have been done or taken under the corresponding provisions of this Act.

Sd/-
SHRI B. R. ATRE,
Joint Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

B. K. SHAH,
Secretary to Government.

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GOVERNMENT OF GUJARAT

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, 15th September, 1993.

No. RP/104/93/30/93/Research.—The following Act of Parliament is re-published for general information :

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 3rd April, 1993/Chaitra 13, 1915 (Saka)

The following Act of Parliament received the assent of the President on the 2nd April, 1993 and is hereby published for general information :

THE DENTISTS (AMENDMENT) ACT, 1993

[Act No. 30 of 1993] **[2nd April, 1993]**

AN ACT

further to amend the Dentists Act, 1948.

Be it enacted by Parliament in the Forty-fourth Year of the Republic of India as follows:—

1. (*1*) This Act may be called the Dentists (Amendment) Act, 1993. Short title and Commencement.

(*2*) It shall be deemed to have come into force on the 27th day of August, 1992.

16 of 1948 **2.** After section 10 of the Dentists Act, 1948 (hereinafter referred to as the principal Act), the following sections shall be inserted, namely:— Insertion of new sections 10A, 10B and 10C.

'10A. (*1*) Notwithstanding anything contained in this Act or any other law for the time being in force,— Permission for establishment of new dental college, new courses of study, etc.

(*a*) no person shall establish an authority or institution for a course of study or training (including a post-graduate course of study or training) which would enable a student of such course or training to qualify himself for the grant of recognised dental qualification; or

(*b*) no authority or institution conducting a course of study or training (including a post-graduate course of study or training) for grant of recognised dental qualification shall—

(*i*) open a new or higher course of study or training (including a post-graduate course of study or training) which would enable a student of such course or training to qualify himself for the award of any recognised dental qualification; or

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(*ii*) increase its admission capacity in any course of study or training (including a post-graduate course of study or training).

except with the previous permission of the Central Government obtained in accordance with the provisions of this section.

Explanation 1.— For the purposes of this section, "person" includes any University or a trust but does not include the Central Government.

Explanation 2.—For the purposes of this section, "admission capacity" in relation to any course of study or training (including a post-graduate court of study or training) in an authority or institution granting recognised dental qualification, means the maximum number of students that may be fixed by the Council from time to time for being admitted to such courseor training.

(*2*) (*a*) Every perason, authority or institution granting recognised dental quali fiction shall, for the purpose of obtaining permission under sub-section (*1*), submit to the Central Govenment a scheme in accodance with the povisions of clause (o) and the Central Government shall refer the said scheme to the Council for its recommendations.

(*b*) The scheme referred to in clause (*a*) shall be in such form and contain such particulars and be preferred in such manner and be accompanied with such fee as may be prescribed.

(*3*) On receipt of a scheme by the Council under sub-section (*2*), the Council may obtain such other particulars as may be considered necessary byit from the persont, authority or institution concerned, granting recognised dental qualification and there after, it may,—

(*a*) if the scheme is defective and does not contain any necessary particulars, give a reasonable opportunity to the person, authority or instutition concerned for making written representation and it shall be open to such person,authoirity or institution to rectify the defects, if any, specified by the Council;"

(*b*) consider the scheme, having regared to the factors referred to in sub-section (*7*), and submit the scheme together with its recommendations thereon to the Central Government.

(*4*) The Central Government may, after considering the scheme and the recommendations of the Council under sub-section (*3*) and after obtaining, where necessary, such other particulars as may be considered necessary by it from the person, authority or institution concerned, and having regard to the factors referred to in sub-section (*7*), either approve (with such conditions, if any, as it may consider necessary) or disapprove the scheme and any such approval shall be a permission under sub-section (*1*):

Provided that no scheme shall be disapproved by the Central Government except after giving the person, authority or institution concerned granting recognised dental qualification a reasonable opportunity of being heard:

Provided further that nothing in this sub-section shall prevent any person, authority or institution whose scheme has not been approved to submit a fresh scheme and the provisions of this section shall apply to such scheme, as if such scheme has been submitted for the first time under sub-section (*2*).

(*5*) Where, within a period of one year from the date of submission of the scheme to the Central Government under sub-section (*2*), no order passed by the Central Government has been communicated to the person, authority or institution submitting the scheme, such scheme shall be deemed to have been approved by the Central Government in the form in which it had been submitted, and accordingly, the permission of the Central Government required under sub-section (*1*) shall also be deemed to have been granted.

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(6) In computing the time-limit specified in sub-section (5), the time taken by the person, authority or institution concerned submitting the scheme in furnishing any particulars called for by the Council or by the Central Government shall be excluded.

(7) The Council, while making its recommendations under clause (b) of sub-section (3) and the Central Government, while passing an order either approving or disapproving the scheme under sub-section (4), shall have due regard to the following factors, namely:–

(a) whether the proposed authority or institution for grant of recognised dental qualification or the existing authority or institution seeking to open a new or higher course of study or training, would be in a position to offer the minimum standards of dental education in conformity with the requirements refefred to in section 16A and the regulations made under sub-section (1) of section 20;

(b) whether the person seeking to establish an authority or institution or the existing authority or institution seeking to open a new or higher courseof study or training or to increase its admission capacity has adequate resources;

(c) whether necessary facilities in respect of staff, equipment, accommodation, training and other facilities to ensure proper functioning of the authority or institution or conducting the new course of study or training of accommodating the increased admission capacity have been provided or would be provided within the time-limit specified in the scheme;

(d) whether adequate hospital facalities, having regard to the number of students likely to attend such authority or institution or course of study or training or as a result of the increased admission capacity have been provided or would be provided within the time-limit specified in the scheme;

(e) whether any arrangement has been made or programme drawn to impart proper training to students likely to attend such authority or institution or course of study or training by persons having the recognised dental qualifications;

(f) the requirement of manpower in the field of practice of dentistry; and

(g) any other factors as may be prescribed.

(8) Where the Central Government passes an order either approving or disapproving a scheme under this section, a copy of the order shall be communicated to the person, authority institution concerned.

Non-recognition of dental qualifications in certain cases.

10B. (1) Where any authority or institution is established for grant of recognised dental qualification except with the previous permission of the Central Government in accordance with the provisions of section 10A, no dental qualification granted to any student of such authority or institution shall be a recognised dental qualification for the purposes of this Act.

(2) Where any authority or institution granting recognised dental qualification opens a new or higher course of study or training (including a post-graduate course of study or training) except with the previous permission of the Central Government in accordance with the provisions of section 10A, no dental qualification granted to any student of such authority or institution on the basis of such study or training shall be a recognised dental qualification for the purposes of this Act.

(3) Where any authority or institution granting recognised dental qualification increases its admission capacity in any course of study or training (including a post-graduate course of study or training) except with the previous permission of the Central Government in accordance with the provisions of section 10A, no dental qualification granted to any student of such authority or institution on the basis of the increase in its admission capacity shall be a recognised dental qualification for the purposes of this Act.

Explanation.- For the purposes of this section, the criteria for identifying a student who has been granted a dental qualification on the basis of such increase in the admission capacity shall be such as may be prescribed.

Time for seeking permission. for certain existing authorities.

10C. (*1*) If, after the 1st day of June, 1992 and on and before the commencement of the Dentists (Amendment) Act, 1993 any person has established an authority or institution for grant of recognised dental qualification or any authority or institution granting recognised dental qualification has opened a new or higher course of study or training (including a post-graduate course of study or training) or increased its admission capacity, such person, authority or institution, as the case may be, shall seek, within a period of one year from the commencement of the Dentists (Amendment) Act 1993, the permission of the Central Government in accordance with the provisions of section 10A.

(*2*) If any person or, as the case may be, any authority or institution granting recognised dental qualification fails to seek the permission under sub-section (*1*), the provisions of section 10B shall apply, so far as may be, as if permission of the Central Government under section 10A has been refused.".

Amendment of section 20.

3. In section 20 of the principal Act, in sub-section (*2*), after clause (*f*), the following clauses shall be inserted, namely:—

"(*fa*) prescribe the form of the scheme, the particulars to be given in such scheme, the manner in which the scheme is to be preferred and the fee payable with the scheme under clause (b) of sub-section (*2*) of section 10A;

(*fb*) prescribe any other factors under clause (*g*) of sub-section (*7*) of section 10A;

(*fc*) prescribe the criteria for identifying a student who has been granted a dental qualification referred to in the *Explanation* to sub-section (*3*) of section 10B.".

Repeal and saving.

4. (*1*) The Dentists (Amendment) Ordinance, 1993 is hereby repealed.

(*2*) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

Ord. 3 of 1993.

Sd/-

SHRI B. R. ATRE,
Joint Secretary to the Government of India,

By order and in the name of the Governor of Gujarat,

B. K. SHAH,
Secretary to Government.

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GOVERNMENT OF GUJARAT

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, 14th September, 1993.

No. : RP/99/93/25/93 /Research.—The following Act of Parliament is re-published for general information :

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 2nd April, 1993/Chaitra 12, 1915 (Saka)

The following Act of Parliament received the assent of the President on the 2nd April, 1993 and is hereby published for general information :

THE GOLD BONDS (IMMUNITIES AND EXEMPTIONS) ACT, 1993

[Act No. 25 of 1993] **[2nd April, 1993]**

AN ACT

to provide for certain immunities to the subscribers of the Gold Bonds and for certain exemptions from direct taxes in relations to such Bonds and for matters connected therewith or incidental thereto.

WHTHERS with a view to mobilising the idle gold resources of residents in India, it is expedient to provide for certain immunities and exemptions to render it possible for such residents to subscribe to Gold Bonds ;

BE it enacted by Parliament in the Forty fourth Year of the Republic of India as follows :—

Short title and Commencement

1. (*1*) This Act may be called the Gold Bonds (Immunities and Exemptions) Act, 1993.

(*2*) It shall be deemed to have come into force on the 31st day of January, 1993.

Definitions

2. In this Act, unless the context otherwise requires,—

(a) "Gold Bonds" means the Gold Bonds, 1998 issued by the Central Government in accordance with the scheme framed by that Government under section 3;

(b) "subscriber" means an individual, a Hindu undivided family, trustees of a trust, a firm or a company, being a resident or residents in India, who has or have initially subscribed to the Gold Bonds.

Explanation.—For the purposes of this clause, the expression "individual" shall also include,—

(*i*) his legal heirs ; or

(ii) where a partition has taken place among the members of the Hindu undivided family, every member of such family having a share in the Gold Bonds;

43 of 1951.

(*c*) all other words and expressions used in this Act but not defined and defined in the Income-tax Act, 1961 shall have the meanings respectively assigned to them in that Act.

Gold Bonds scheme

3. (*1*) The Central Government may, by notification in the Official Gazette, frame a scheme for subscription to the Gold Bonds, 1998, on or after the date of commencement of this Act, but before the specified date.

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Explanation.—For the purposes of this sub-section,, "Specified date" means the 31st day of March, 1993 or such other later date as the Central Government may, by notification in the Official Gazette, specify in this behalf.

(*2*) The scheme framed under sub-section (*1*) shall be laid, as soon as may be after it is framed, before each House of Parliament.

Immunities.

4. (*1*) Notwithstanding anything contained in the Wealth-tax Act, 1957 the Gift atx Act, 1958, the Income tax Act, 1961, the Customs Act, 1962, the Foreign Exchange Regulation Act, 1973 and the Foreign Contribution (Regulation) Act, 1976,–

27 of 195 .
18 of 1958.
43 of 1961.
52 of 1962.
46 of 1973.
49 of 1976.

(*a*) no subscriber shall be required to disclose, for any purpose whatsoever, the nature and source of acquisition of the gold subscribed for the Gold Bonds, including the source of money with which the gold was acquired ;

(*b*) no inquiry or investigation shall be commenced against any subscriber under any of the said Acts on the ground that such subscriber owns the Gold Bonds; and

(*c*) the fact that any subscriber owns the Gold Bonds shall not be taken into account for the purposes of, and shall be inadmissible as evidence in, any proceedings under any of the said Acts;

Provided that nothing contained in this sub-section shall apply where any proceedings in respect of the gold subscribed by the subscriber have already been initiated before the commencement of this Act in accordance with the provisions of any of the aforesaid Acts.

(*2*) Nothing in sub-section (*1*) shall apply in relation to prosecution for any offence punishable under Chapter IX or Chapter XVII of the Indian Penal Code, the Narcotic Drugs and Psychotropic Substances Act, 1985, the Terrorist and Disruptive Activities (Prevention) Act, 1987, the Prevention of Corruption Act, 1988 or for the purposes of enforcement of any civil liability.

45 of 1860.
61 of 1985.
28 of 1987.
49 of 1988.

Gold Bonds not to be taken into account in certain cases.

5. Without prejudice to the generality of the provisions of section 4,—

43 of 1951.

(a) the provisions of the Income tax Act, 1961 shall not apply to–

(*i*) any interest accruing to the subscriber from the Gold Bonds;

(*ii*) any-long term capital gains arising to the subscriber;

(*b*) the provisions of the Gift-tax Act, 1958 shall not apply where the gift of the Gold Bonds is made by a subscriber, being an individual, to his spouse, child or parent.

18 of 1958.

Repeal and Saving

6. (*1*) The Gold Bonds (Immunities and Exemptions) Ordinance, 1993 is hereby repealed.

ord. 22 of 1993.

(*2*) Notwithstanding such repeal anything done or any action taken under the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of this Act.

Sd/-
SHRI K. L. MOHANPURIA,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

B. K. SHAH,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, 22nd September, 1993.

No. RP/97/93/23/93/Research : The following Act of Parliament is re-published for general information.

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 2nd April, 1993/Chaitra 12, 1915 (Saka)

The following Act of Parliament received the assent of the President on the 2nd April, 1993 and is hereby published for general information.

THE INDUSTRIAL FINANCE CORPORATION (TRANSFER OF UNDERTAKING AND REPEAL) ACT, 1993

[Act No. 23 of 1993] [2nd April, 1993]

AN ACT

to provide for the transfer and vesting of the undertaking of the Industrial Finance Corporation of India to and in the Company to be formed and registered as a Company under the Companies Act, 1956, and for matters connected therewith or incidental thereto and also to repeal the Industrial Finance Corporation Act, 1948.

Be it enacted by Parliament in the Forty-fourth Year of the Republic of India as follows:—

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Short title and commencement.

1. (*1*) This Act may be called the Industrial Finance Corporation (Transfer of Undertaking and Repeal) Act, 1993.

(2) It shall be deemed to have come into force on the 1st day of October, 1992.

Definitions

2. In this Act, unless the context otherwise requires—

(*a*) "appointed day" means such date as the Central Government may, by notification in the Official Gazette, appoint under section 3;

(*b*) "Company" means the Industrial Finance Corporation of India Limited to be formed and registered under the Company Act, 1956; I of 1956.

(*c*) "Corporation" means the Industrial Finance Corporation of India established under sub-section (*1*) of section 3 of the Industrial Finance Corporation Act, 1948. 15 of 1948

Undertaking of the Corporation to vest in the Company.

3. On such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be transfer to, and vest in, the Company, the undertaking of the Corporation.

General effect of vesting of undertaking in the Company.

4. (*1*) Every shareholder of the Corporation immediately before the appointed day shall be deemed to be registered on and from the appointed day as a shareholder of the Company to the extent of the face value of the shares held by such shareholder.

(*2*) The undertaking of the Corporation which is transfered to and which vests in the Company under section 3 shall be deemed to include all business, assets, rights, powers, authorities and privileges and all properties, movable and immovable, real and personal, corporeal and incorporeal, in possession or reservation, present or contingent of whatever nature and wheresoever situate including lands, buildings, vehicles, cash balances, deposits, foreign currencies, disclosed and undisclosed reserves, reserve fund, special reserve fund, benevolent reserve fund, any other fund, stocks, investments, shares, bonds, debentures, security, management of any industrial concern, loans, advances and guarantees given to industrial concerns, tenancies, leases and book debts and all other rights and interests arising out of such property as were immediately before the appointed day in the ownership, possession or power of the Corporation in relation to its undertaking within or without India, all books of accounts, registers, records and documents relating thereto and shall also be deemed to include all borrowings, liabilities and obligations of whatever kind within or without India then subsisting of the Corporation in relation to its undertaking.

(*3*) All contracts, deeds, bonds, guarantees, powers of attorney, other instruments and working arrangements subsisting immediately before the appointed day and affecting the Corporation shall cease to have effect or to be enforceable against the Corporation and shall be of as full force and effect against or in favour of the Company in which the undertaking of the Corporation has vested by virtue of this Act and enforceable as fully and effectually as if instead of the Corporation, the Company had been named therein or had been a party thereto.

(*4*) Any proceeding or cause of action pending or existing immediately before the appointed day by or against the Corporation in relation to its undertaking may, as from the appointed day, be continued and enforced by or against the Company in which the undertaking of the Corporation has vested by virtue of this Act as it might have been enforced by or against the Corporation if this Act had not been enacted and shall cease to be enforceable by or against the Corporation.

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Concession, etc to be deemed to have been granted to the Company.

5. With effect from the appointed day, all fiscal and other concessions, licences, benefits, privileges and exemptions granted to the Corporation in connection with the affairs and business of the Corporation under any law for the time being in force shall be deemed to have been granted to the Company.

Tax exemption or benefit to continue to have effect.

43 of 1961. **6.** (*1*) Where any exemption from, or any assessment with respect to, any tax has been granted or made or any benefit by way of set off or carry forward of any unabsorbed depreciation or investment allowance or other allowance or loss has been extended or is available to the Corporation under the Incime-tax Act, 1961, such exemption, assessment or benefit shall continue to have effect in relation to the Company.

43 of 1961. (*2*) Where any payment made by the Corporation is exempt from deduction of tax at source under any provision of the Income-tax Act, 1961, such exemption will continue to be available as if the provisions of the said Act made applicable to the Corporation were operative in relation to the Company.

43 of 1961. (*3*) The transfer and vesting of the undertaking or any part thereof in terms of section 3 shall not be contstrued as a transfer within the meaning of the Income-tax Act, 1961 for the purposes of capital gains.

Guarantee to be operative.

7. Any guarantee given for or in favour of the Corporation with respect to any loan, lease finance or other assistance shall continue to be operative in relation to the Company.

Provisions in respect of officers and other employees of Corporation.

8. (*1*) Every officer or other employee of the Corporation (except a Director of the Board, Chairman or Managing Director) serving in the employment immediately before the appointed day shall, in so far as such officer or other employee is employed in connection with the undertaking which has vested in the Company by virtue of this Act, become, as from the appointed day, an officer or, as the case may be, other employee of the Company and shall hold his officer or service therein by the same tenure, at the same remuneration, upon the same terms and conditions, with the same obligations and with the same rights and privileges as to leave, leave fare concession, welfare scheme, medical benefit scheme, insurance, provident fund, other funds, retirement, voluntary retirement, gratuity and other benefits as he would have held under the Corporation if its undertaking had not vested in the Company and shall continue to do so as an officer or, as the case may be, other employee of the Company or until the expiry of a period of six months from the appointed day if such officer or other employee opts not to continue to be the officer or other employee of the Company within such period.

(*2*) Where an officer or other employee of the Corporation opts under sub-section (*1*) not to be in employment or service of the Company, such officer or other employee shall be deemed to have resigned.

14 of 1947. (*3*) Notwithstanding anything contained in the Industrial Disputes Act, 1947 or in any other law for the time being in force, transfer of the services of any officer or other employee of the Corporation to the Company shall not entitle such officer or other employee to any compensation under this Act or under any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority.

(*4*) The officers and other employees who have retired before the appointed day from the service of the Corporation and are entitled to any benefits, rights or privileges shall be entitled to receive the same benefits, rights or privileges from the Company.

(5) The trusts of the provident fund or the gratuity fund of the Corporation and any other bodies created for the welfare of officers or employees would continue to discharge their functions in the Company as was being done hitherto in the Corporation and any tax exemption granted to the provident fund or the gratuity fund would continue to be applied to the Company.

1 of 1956

(6) Notwithstanding anything contained in his Act or in the Companies Act, 1956 or in any other flaw or the time being in force or in the regulations of the Corporation, no Director of the Board, Chairman, Managing Director, or any other persons entitled to manage the whole or substantial part of the business and affairs of the Corporation shall be entitled to any compensation against the Corporation or the Company for the loss of office or for the premature termination of any contract of management entered into by him with the Corporation.

Act 18 of 1891 to apply to the books of the Company.

9. The Company shall be deemed to be a bank for the purposes of the Bankers' Books Evidence Act, 1891.

Shares, bonds and debentures to be deemed to be approved securities.

10. Notwithstanding anything contained in any other law for the time being in force, the shares, bonds and debentures of the Company shall be deemed to be approved securities for the purposes of the Indian Trusts Act, 1882, the Insurance Act, 1938 and the Banking Regulation Act, 1949.

2 of 1882.
4 of 1938.
10 of 1949.

Repeal and saving of Act 15 of 1948.

11. (1) On the appointed day, the Industrial Finance Corporation Act, 1948 shall stand repealed.

(2) Notwithstanding the repeal of the Industrial Finance Corporation Act, 1948, the Company shall, so far as may be, comply with the provisions of sections 33, 34, 34A, 35 and 43 of the Act so repealed for any of the purposes related to the annual accounts of the Corporation.

15 of 1948.

Repeal and saving.

12. (1) The Industrial Finance Corporation (Transfer of Undertaking and Repeal) Ordinance, 1993 is hereby repealed.

Ord 5 of 1993.

(2) Notwithstanding the repeal of the Industrial Finance Corporation (Transfer of Undertaking and Repeal) Ordinance, 1993, anything doene or any action taken under the said Ordinance, shal be deemed to have been done or taken under the corresponding provisions of this Act.

Ord. 5 of 1993.

Sd/-

SHRI K. L. MOHANPURIA,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

B. K. SHAH,
Secretary to Government.

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LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, dated the 15th September, 1993.

No. RP/101/93/27/93/Research.—The following Act of Parliament is re-published for general information:

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
(Legislative Department)

New Delhi, the 2nd April, 1993/Chaitra 12, 1915 (Saka.)

The following Act of Parliament received the assent of the President on the 2nd April, 1993 and is hereby published for general information :

THE NATIONAL COMMISSION FOR BACKWARD CLASSES ACT, 1993

[Act No. 27 of 1993]　**[2nd April, 1993]**

AN ACT

to constitute a National Commission for Backward Classes other than the Scheduled Castes and the Scheduled Tribes and to provide for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Forty-fourth Year of the Republic of India as follows:—

CHAPTER I

Preliminary

Short title, extent and commencement.

1. (*1*) This Act may be called the National Commission for Backward Classes Act, 1993.

(*2*) It extends to the whole of India except the State of Jammu and Kashmir.

(*3*) It shall be deemed to have come into force on the 1st day of February, 1993.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "backward classes" means such backward classes of citizens other than the Scheduled Castes and the Scheduled Tribes as may be specified by the Central Government in the lists;

(*b*) "Commission" means the National Commission for Backward Classes constituted under section 3;

(*c*) "lists" means lists prepared by the Government of India from time to time, for purposes of making provision for the reservation of appointments or posts in favour of backward classes of citizens which, in the opinion of that Government, are not adequately represented in the services under the Government of India and any local or other authority within the territory of India or under the control of the Government of India;

(*d*) "Member" means a Member of the Commission and includes the Chairperson;

(*e*) "prescribed" means prescribed by rules made under this Act.

CHAPTER II

THE NATIONAL COMMISSION FOR BACKWARD CLASSES

Constitution of National Commission for Backward Classes.

3. (*1*) The Central Government shall constitute a body to be known as the National Commission for Backward Classes to exercise the powers conferred on, and to perform the functions assigned to, it under this Act.

(*2*) The Commission shall consist of the following Members nominated by the Central Government:—

(*a*) a Chairperson, who is or has been a Judge of the Supreme Court or of a High Court;

(*b*) a social scientist;

(*c*) two persons, who have special knowledge in matters relating to backward classes; and

(*d*) a Member-Secretary, who is or has been an officer of the Central Government in the rank of a Secretary to the Government of India.

Term of office and conditions of service of Chairperson and Members.

4. (*1*) Every Member shall hold office for a term of three years from the date he assumes office.

(*2*) A Member may, by writing under his hand addressed to the Central Government, resign from the office of Chairperson or, as the case may be, of Member at any time.

(*3*) The Central Government shall remove a person from the office of Member if that person—

(*a*) becomes an undischarged insolvent;

(*b*) is convicted and sentenced to imprisonment for an offence which, in the opinion of the Central Government, involves moral turpitude;

(*c*) becomes of unsound mind and stands so declared by a competent court;

(*d*) refuses to act or becomes incapable of acting;

(*e*) is, without obtaining leave of absence from the Commission, absent from three consecutive meetings of the Commission; or

(*f*) has, in the opinion of the Central Government, so abused the position of Chairperson or Member as to render that person's continuance in office detrimental to the interests of backward classes or the public interest:

Provided that no person shall be removed under this clause until that person has been given an opportunity of being heard in the matter.

(*4*) A vacancy caused under sub-section (2) or otherwise shall be filled by fresh nomination.

(*5*) The salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and Members shall be such as may be prescribed.

Officers and other employees of the Commission.

5. (*1*) The Central Government shall provide the Commission with such officers and employees as may be necessary for the efficient performance of the functions of the Commission.

(*2*) The salaries and allowances payable to, and the other terms and conditions of service of, the officers and other employees appointed for the purpose of the Commission shall be such as may be prescribed.

Salaries and allowances to be paid out of grants.

6. The salaries and allowances payable to the Chairperson and Members and the administrative expenses, including salaries, allowances and pensions payable to the officers and other employees referred to in section 5, shall be paid out of the grants referred to in sub-section (*1*) of section 12.

Vacancies etc, not to invalidate proceedings of the Commission.

7. No act or proceeding of the Commission shall be invalid on the ground merely of the existence of any vacancy or defect in the constitution of the Commission.

Procedure to be regulated by the Commission.

8. (*1*) The Commission shall meet as and when necessary at such time and place as the Chairperson may think fit.

(*2*) The Commission shall regulate its own procedure.

(*3*) All orders and decisions of the Commission shall be authenticated by the Member-Secretary or any other officer of the Commission duly authorised by the Member-Secretary in this behalf.

CHAPTER III

FUNCTIONS AND POWERS OF THE COMMISSION

Functions of the Commission.

9. (*1*) The Commission shall examine requests for inclusion of any class of citizens as a backward class in the lists and hear complaints of over-inclusion or under-inclusion of any backward class in such lists and tender such advice to the Central Government as it deems appropriate.

(*2*) The advice of the Commission shall ordinarily be binding upon the Central Government.

Powers of the Commission.

10. The Commission shall, while performing its functions under sub-section (*1*) of section 9, have all the powers of a civil court trying a suit and in particular, in respect of the following matters, namely:—

(*a*) summoning and enforcing the attendance of any person from any part of India and examining him on oath;

(*b*) requiring the discovery and production of any document;

(*c*) receiving evidence on affidavits;

(*d*) requisitioning any public record or copy thereof from any court or office;

(*e*) issuing commissions for the examination of witnesses and documents; and

(*f*) any other matter which may be prescribed.

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Periodic revision of lists by the Central Government.

11. (*1*) The Central Government may at any time, and shall, at the expiration of ten years from the coming into force of this Act and every succeeding period of ten years thereafter, undertake revision of the lists with a view to excluding from such lists those classes who have ceased to be backward classes or for including in such lists new backward classes.

(*2*) The Central Government shall, while undertaking any revision referred to in sub-section (*1*) consult the Commission.

CHAPTER IV

FINANCE, ACCOUNTS AND AUDIT

Grants by the Central Government.

12. (*1*) The Central Government shall, after due appropriation made by Parliament by law in this behalf, pay to the Commission by way of grants such sums of money as the Central Government may think fit for being utilised for the purposes of this Act.

(*2*) The Commission may spend such sums as it thinks fit for performing the functions under this Act, and such sums shall be treated as expenditure payable out of the grants referred to in sub-section (*1*)

Accounts and audit.

13. (*1*) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consulation with the Comptroller and Auditor-General of India.

(*2*) The accounts of the Commission shall be audited by the Comptroller and Auditor-General at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Commission to the Comptroller and Auditor-General.

(*3*) The Comptroller and Auditor-General and any person appointed by him in connection with the audit of the accounts of the Commission under this Act shall have the same rights and privileges and the authority in connection with such audit as the Comptroller and Auditor General generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Commission.

Annual report.

14. The Commission shall prepare, in such form and at such time, for each financial year, as may be prescribed, its annual report, giving a full accounts of its activities during the previous financial year and forward a copy thereof to the Central Government.

Annual report and audit report to be laid before Parliament.

15. The Central Government shall cause the annual report, together with memorandum of action taken on the advice tendered by the Commission under section 9 and the reasons for the non-acceptance, if any, of any such advice, and the audit report to be laid as soon as may be after they are received before each House of Parliament.

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CHAPTER V

MISCELLANEOUS

45 of 1860.

Chairperson Members and employees of the Commission to be public servants.

16. The Chairperson, Members and employees of the Commission shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Power to make rules.

17. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:-

(*a*) salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and Members under sub-section (*5*) of section 4 and the officers and other employees under sub-section (*2*) of section 5;

(*b*) the form in which the annual statement of accounts shall be prepared under sub-section (*1*) of section 13.

(*c*) the form in, and the time at, which the annual report shall be prepared under section 14.

(*d*) any other matter which is required to be, or may be prescribed.

(*3*) Every rule made under this Act, shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall there after have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything done under that rule.

Power to remove difficulties.

18. (*1*) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make provisions, not inconsistent with the provisions of this Act as appear to it to be necessary or expedient, for removing the difficulty;

Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

(*2*) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

Ord. 23 of 1993.

Repeal and saving.

19. (*1*) The National Commission for Backward Classes Ordinance, 1993 is hereby repealed.

(*2*) Notwithstanding such repeal, anything done or any action taken under the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of this Act.

Sd/-
SHRI K. L. MOHANPURIA,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,
B. K. SHAH,
Secretary to Government.

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LEAGAL DEPARTMENT

Sachivalaya, Gandhinagar, Dated the 15th September, 1993.

No. RP/102/93/28/93/Research.—The following Act of Parliament is re-published for general information :

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 2nd April, 1993/Chaitra 12, 1915 (Saka)

The following Act of Parliament received the assent of the President on the 2nd April, 1993 and is hereby published for general information :

THE MULTIMODAL TRANSPORTATION OF GOODS ACT, 1993

[Act No. 28 of 1993] **[2nd April, 1993]**

AN ACT

to provide for the regulation of the multimodal transportation of goods, from any place in India to a place outside India, on the basis of a multimodal transport contract and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Forty-fourth Year of the Republic of India as follows:—

CHAPTER I

Preliminary

Short title, extent and commencement.

1. (*1*) This Act may be called the Multimodal Transportation of Goods Act, 1993.

(*2*) It extends to the whole of India except the State of Jammu and Kashmir.

(*3*) It shall be deemed to have come into force on the 16th day of Otctober, 1992.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "carrier" means a pereson who is engaged in the business of transporting for a hire goods by road, rail, inland waterways or sea ;

(*b*) "competent authority" means any person or authority authorised by the Central Government, by notification in the Official Gazette, to perform the functions of the competent authority under this Act;

(*c*) "consignee" means the pereson named as consignee in the multimodal transport contract ;

(*d*) "consignment" means the goods entrusted to a multimodal transport operator for multimodal transportation ;

(*e*) “consignor” means the pereson, named in the multimodal transport contract as consignor, by whom or on whose behalf the goods covered by such contract are entrusted to a multimodal transport operator for multimodal transportation ;

(*f*) “delivery” means,—

(*i*) in the case of negotiable multimodal transport document, delivering of the consignment to, or placing the consignment at the disposal of,. the consignee or any other person entitled to receive it;

(*ii*) in the case of a non-negotiable multimodal transort document, delivering of the consignment to, or placing the consignment at the disposal of, the consignee or any pereson authorised by the consignee to accept delivery of the consignment on his behalf ;

(*g*) “endorsee” means the person in whose favour an endorsement is made, and in the case of successive endorsements, the person in whose favour the last endorsement is made ;

(*h*) “endorsment” means the signing by the consignee or the endorsee after adding a direction on a negotiable multimodal transport document to pass the prorperty in the goods mentioned in such document to a specified pereson ;

(*i*) “goods” includes—

(*i*) containeres, pallets or similar articles of transport used to consolidate goods; and

(*ii*) animals ;

(*j*) “mode of transport” means carriage of goods by road, rail, inland waterways or sea ;

(*k*) “multimodal transporation” means carriage of goods by two or more modes of transport from the place of acceptance of the goods in India to a place of delivery of the goods outside India ;

(*l*) “multimodal transport contract” means a contract entered into by the consignor and the multimodal taransport operator for multimodal transportation ;

(*m*) “multimodal transport operator” means any person who—

(*i*) concludes a multimodal transport contract on his own behalf or through another person acting on his behalf ;

(*ii*) acts as principal, and not as an agent either of the consignor or of the carrier participating in the multimodal transportation, and who assumes responsibility for the performance of the said contract; and

(*iii*) is registered under sub-section (*3*) of section 4;

(*n*) “negotiable multimodal transport document” means a multimodal transport document which is—

(*i*) made out to order or to bearer; or

(*ii*) made out to order and is transferable by endorsement; or

(*iii*) made out to bearer and is transferable without endorsement ;

(*o*) “non negotiable multimodal transport document” means a multimodal transport document which indicates only one named consignee ;

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(*p*) "prescribed" means prescribed by rules made under this Act ;

(*q*) "registration" means registration of multimodal transport operator under sub-section (*3*) of section 4.

CHAPTER II

REGULATION OF MULTIMODAL TRANSPORATION

No person to carry on business without registration.

3. No person shall carry on or commence the business of multimodal transportation unless he is registered under this Act :

Provided that a person carrying on the business of multimodal transportation immediately before the commencement of this Act, may continue to do so for a period of three months from such commencement; and if he has made an application for registration within the said period, till the disposal of such application.

Registration for multimodal transportion.

4. (*1*) Any person may apply for registration to the competent authority to carry on or commence the business of multimodal transportation.

(*2*) An application under sub-section (*1*) shall be made in such form as may be prescribed and shall be accompanied by a fee of ten thousand rupees.

(*3*) On receipt of the application, the competent authority shall satisfy that the applicant fulfils the following conditions, namely :—

(*a*) (*i*) that the applicant is a shipping company or a company engaged in the business of freight forwarding in India or abroad with a minimum annual turnover of fifty lakh rupees during the immediate preceding financial year or an average annual turnover of fifty lakh rupees during the preceding three financial years as certified by a chartered accountant within the meaning of the Chartered Accountants Act, 1949 ; **38 of 1949**

(*ii*) that if the applicant is a company other than a company specified in sub-clause (*i*) the subscribed share capital of such company is not less than fifty lakh rupees ;

(*b*) that the applicant has offices or agents or representatives in not less than two other countries,

and on being so satisfied, register the applicant as a multimodal transport operator and grant a certificate to it to carry on or commence the business of multimodal transportation :

Provided that the competent authority may, for reasons to be recorded in writing, refuse to grant registration if it is satisfied that the applicant does not fulfil the said conditions.

(*4*) A certificate granted under sub-section (*3*) shall be valid for a period of one year and may be renewed from time to time for a further period of one year at a time.

(*5*) An application for renewal shall be made in such form as may be prescribed and shall be accompanied by a fee of two thousand rupees.

Cancelation of registration.

5. The competent authority may, if it is satisfied at any time after registration that—

(*a*) any statement in, or in relation to, any application under sub-section (*2*) of section 4 or its renewal under sub-section (*5*) of that section, is incorrect or false in any material particular; or

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(*b*) any of the provisions of this Act or the rules made there under has been contravened by the multimodal transport operator; or

(c) the multimodal transport operator has not entered into any multimodal transport contract during the preceding two years after his registration ;

cancel by order the certificate of registration :

Provided that no such registration shall be cancelled unless the multimodal transport operator has been given a reasonable opportunity of showing cause against the proposed action.

Appeal.

6. (*1*) Any person aggrieved by an order made by the competent authority under section 5 may prefer an appeal to the Central Government within such period as may be prescribed.

(*2*) No appeal shall be admitted if it is preferred after the expiry of the prescribed period :

Provided that an appeal may be admitted after the expiry of the prescribed period if the appellant satisfies the Central Government that he had sufficient cause for not preferring the appeal within the prescribed period.

(*3*) Every appeal made under this section shall be made in such form and on payment of such fees as may be prescribed and shall be accompanied by a copy of the order appealed against.

(*4*) On receipt of any such appeal, the Central Government shall after giving the parties a reasonable opportunity of being heard and after making such inquiry as it deems proper, make such order as it thinks fit.

CHAPTER III

MULTIMODAL TRANSPORT DOCUMENT

Issue of multimodal transport document.

7. (*1*) Where the consignor and the multimodal transport operator have entered into a contract for the multimodal transportation and the multimodal transport operator has taken charge of the goods, he shall at the option of the consignor, issue a negotiable or non-negotiable multimodal transport document.

(*2*) The multimodal transport document shall be signed by the multimodal transport operator or by a person duly authorised by him.

Multimodal transport document to be regarded as document of title.

8. (*1*) Every consignee named in the negotiable or non-negotiable multimodal transport document and every endorsee of such document, as the case may be, to whom the property in the goods mentioned therein shall pass, upon or by reason of such consignment or endorsement, shall have all the rights and liabilities of the consignor.

(*2*) Nothing contained in sub-section (*1*) shall prejudice or affect the right of the multimodal transport operator to claim freight from the consignor or enforce any liability of the consignee or endorsee by reason of his being such consignee or endorsee.

Contents of multimodal transport document.

9. The multimodal transport document shall contain the following particulars, namely :—

(*a*) the general nature of the goods, the leading marks necessary for identification of the goods, the character of the goods (inculding dangerous goods) number of packages or units and the gross weight and quantity of the goods ;

(*b*) apparent condition of the goods ;

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(*c*) the name and principal place of business of the multimodal transport operator ;

(*d*) the name of the consignor ;

(*e*) the name of the consignee, if specified by the consignor ;

(*f*) the place and date of taking charge of the goods by the multimodal transport operator ;

(*g*) the place of delivery of the goods ;

(*h*) the date or the period of delivery of the goods at the place of delivery ;

(*i*) whether it is negotiable or non-negotiable ;

(*j*) the place and date of its issue ;

(*k*) freight payable by the consignor or the consignee, as the case may be ;

(*l*) the signature of the multimodal transport operator or of a person duly authorised by him ;

(*m*) the intended journey route, modes of transport and places of transhipment it known at the time of its issue ;

(*n*) terms of shipment and a statement that the document has been issued subject to and in accordance with this Act; and

(*o*) any other particular which the parties may agree to insert in the document if any such particular is not inconsistent with any law for the time being in force.

Reservation in the multimodal transport document.

10. (*1*) Where the multimodal transport operator or a person acting on his behalf knows, or has reasonable grounds to suspect, that the particulars furnished by the consignor in the multimodal transport document do not accurately represent the goods actually taken in charge, or if he has no reasonable means of checking such particulars, the multimodal transport operator or a person acting on his behalf shall insert in the multimodal transport document a reservation specifying the inaccuracies, if any, the grounds of suspicion or the absence of reasonable means of checking the particulars.

(*2*) Where the multimodal transport operator or a person acting on his behalf fails to insert the reservation in the multimodal transport document relating to the apparent condition of the goods, he shall be deemed to have accepted the goods in apparent good condition.

Evidentiary effect of the multimodal transport document.

11. Save as provided in section 10,—

(*a*) the multimodal transport document shall be *prima facie* evidence of the fact that the multimodal transport operator has taken charge of the goods as described in the document ; and

(*b*) no proof to the contrary by the multimodal transport operator shall be admissible if the multimodal transport document is issued in negotiable form and has been transmitted to the consignee or transferred by the consignee to a third party, if the consignee or the third party has acted in good faith relying on the description of the goods in the document.

Responsibility of the consignor.

12. (*1*) The consignor shall be deemed to have guaranteed to the multimodal transport operator the adequacy and accuracy, at the time the multimodal transport operator takes charge of the goods of the particulars referred to in clauses (*a*) and (*b*) of section 9 as furnished by the consignor for insertion in the multimodal transport document.

(*2*) The consignor shall indemnify the multimodal transport operator against loss resulting from inadequacy or inaccuracy of the particulars referred to in sub-section (*1*).

(*3*) The right of the multimodal transport operator under sub-section (*2*) shall in no way limit his liability under the multimodal transport contract to any person other than the consignor.

CHAPTER IV

RESPONSIBILITIES AND LIABILITIES OF THE MULTIMODAL TRANSPORT OPERATOR

Basis of liability of multimodal transport operator.

13. (*1*) The multimodal transport operator shall be liable for loss resulting from—

(*a*) any loss of, or damage to, the consignment;

(*b*) delay in delivery of the consignment and any consequential loss or damage arising from such delay,

where such loss, damage or delay in delivery took place while the consignment was in his charge:

Provided that the multimodal transport operator shall not be liable if he proves that no fault or neglect on his part or that of his servants or agents had caused or contributed to such loss, damage or delay in delivery:

Provided further that the multimodal transport operator shall not be liable for loss or damage arising out of delay in delivery unless the consignor had made a declaration of interest in timely delivery which has been accepted by the multimodal transport operator.

Explanation.—For the purposes of this sub-section, "delay in delivery" shall be deemed to occur when the consignment has not been delivered within the time expressly agreed upon or, in the absence of such agreement within a reasonable time required by a diligent multimodal transport operator, having regard to the circumstances of the case, to effect the delivery of the consignment.

(*2*) If the consignment has not been delivered within ninety consecutive days following the date of delivery expressly agreed upon or the reasonable time referred to in the *Explanation* to sub-section (*1*) the claimant may treat the consignment as lost.

Limits of liability when the nature and value of the consignment have not been declared and stage of transport where loss or damage occurred is not known.

14. (*1*) Where a multimodal transport operator becomes liable for any loss of, or damage to, any consignment, the nature and value where of have not been declared by the consignor before such consignment has been taken in charge by the multimodal transport operator and the stage of transport at which such loss or damage occurred is not known, then the liability of the multimodal transport operator to pay compensation shall not exceed two Special Drawing Rights per kilogram of the gross weight of the consignment lost or damaged or 666.67 Special Drawing Right per package or unit lost or damaged, whichever is higher.

Explanation.— For the purposes of this sub-section where a container, pallet or similar article of transport is loaded with more than one package or unit, the packages or units enumerated in the multimodal transport document, as packed in such container, pallet or similar article of transport shall be deemed as packages or units.

(2) Notwithstanding anything contained in sub-section (1) if the multimodal tranportation does not, according to the multimodal transport contract, include carriage of goods by sea by inland waterways, the liability of the multimodal transport operator shall be limited to an amount not exceeding 8.33 Special Drawing Rights per kilogram of the gross weight of the goods lost or damaged.

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Limits of liability when the nature and value of the consignment have not been declared and stage of transport where loss or damage occurred is known.

15. Where a multimodal transport operator becomes liable for any loss of, or damage to, any consignment, the nature and value where of have not been declared by the consignor before such consignment has been taken in charge by the multimodal transoport operator and the stage of transport at which such loss or damage occurred is known, then the limit of the liability of the multimodal transport operator for such loss or damage shall be determined in accordance with the provisions of the relevant law applicable in relation to the mode of transport during the course of which the loss or damage occurred and any stipulation in the multimodal transport contract to the contrary shall be void and unenforceable.

Liability of the multimodal transport operator in case of delay in delivery of goods under certain circumstances.

16. Where delay in delivery of the consignment occurs under any of the circumstances mentioned in the *Explanation* to sub-section (*1*) of section 13, or any consequetial loss or damage arises from such delay, then the liability of the multimodal transport operator shall be limited to the freight payable for the consignment so delayed.

Assessment of compensation.

17. (*1*) Assessment of compensation for loss of, or damage to, the consignment shall be made with reference to the value of such consignment at the place where, and the time at which, such consignment is delivered to the consignee or at the place and time when, in accordance with the multimodal transport contract, it should have been delivered.

(*2*) The value of the consignment shall be determined accordaing to the current commodity exchange, price or, if there is no such price, according to the current market price, or, if the current market price is not as certainable, with reference to the normal value of a consignment of the same kind and quantity.

Loss of right of multimodal transport operator to limit liability.

18. The multimodal transport operator shall not be entitled to the benefit of limitation of liability under any of the provisions of this Chapter if it is proved that the loss, damage or delay in delivery of consignment resulted from an act or omission of the multimodal transport operator with intent to cause such loss, damage or delay or recklessly and with knowledge that such loss, damage or delay would probably result.

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Limit of liability of multimodal transport operator for total loss of goods.

19. The multimodal transport operator shall not, in any case, by liable for an amount greater than the liability for total loss of goods for which a person will be entitled to make a claim agaist him under the provisions of this Act.

Notice of loss of or damage to goods.

20(*1*) The delivery of the consignment to the consignee by the multimodal transport operator shall be treated as *Prima facie* evidence of delivery of the goods as described in the multimodal transport document unless notice of the general nature of loss of, or damge to, the goods is given, in writing by the cosignee to the multimodal transport operator at the time of handing over of the goods to the consignee.

(*2*) Where the loss or damage is not apparent, the provisions of sub-section (*1*) shall apply unless notice in writing is given by the consignee of the loss of, or damage to, the goods within six consecutive days after the day when the goods were handed over to the consignee.

CHAPTER-V

MISCELLANEOUS

Special provision for dangerous goods.

21. (*1*) Where the consignor hands over the prescribed dangerous goods to a multimodal transport operator or any person acting on behalf of such operator, the consignor shall inform him of the nature of the dangerous goods and, if necessary, the precautions to be taken while transporting such goods.

(*2*) Where the consignor fails to inform the multimodal transport operator or the other person acting on behalf of such operator of the nature of the dangerous goods and such operator or person does not otherwise have knowledge of the dangerous goods,—

(*a*) the consignor shall be liable to the multimodal transport operator or the other person acting on behalf of such operator for all loss resulting from the multimodal transportation of such goods; and

(*b*) the goods may at any time be unloaded, destroyed or rendered innocuous as the circumstances may reouire, without payment of compensation.

Right of multimodal transport operator to have lien on goods and documents.

22. (*1*) The multimodal transport operator who has not been paid the amount of consideration stipulated in the multimodal transport contract shall have a lien on the consignment and on the documents in his possession.

(2) Notwithstanding anything contained in section 13, 16 and 18 the period during which the goods are in possession of the multimodal transport operator in exercise of his right of lien referred to in sub-section (*1*) shall not be included for the purpose of calculating the time of delay under any of those sections.

General average.

23. Notwithstanding anything contained in any other provision of this Act, it shall be lawful for the parties to the multimodal transport contract to include in the multimodal transport document any provision relating to general average.

Explanation.— For the purpose of this section "general average" means loss, damage or expense reasonably incurred in order to avert danger to property in common peril and in the common interest involved in the multimodal transportation.

Limitation on action.

24. The multimodal transport operator shall not be liable under any of the provisions of this Act unless action against him is brought within nine months of—

(*a*) the date of delivery of the goods, or

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(*b*) the date when the goods should have been delivered, or

(*c*) the date on and from which the party entitled to receive delivery of the goods has the right to treat the goods as lost under sub-section (*2*) of section 13.

Jurisdiction for instituting action.

25. Any party to the multimodal transport contract may institute an action in a court which is competent and within the jurisdiction of which is situated one of the following places, namely:—

(a) the principal place of business, or in the absence thereof, the habitual residence, of the defendant; or

(b) the place where the multimodal transport contract was made, provided that the defendant has a place of business, branch or agency at such place, or

(c) the place of taking charge of the goods for multimodal transportation or the place of delivery thereof; or

(d) any other place specified in the multimodal transport contract and evidenced in the multimodal transport document.

Arbitration.

26. (*1*) The parties to a multimodal transport contract may provide therein that any dispute which may arise in relation to multimodal transportation under the provisions of this Act shall be referred to arbitration.

(*2*) The arbitration proceeding may be instituted at such place or in accordance with such procedure as may be specified in the multimodal transport document.

Delegation of power.

27. The Central Government may, by notification in the *Officiat Gazette* direct that any power exercisable by it under this Act, except the power under section 30, shall, in such circumstances and subject to such conditions, if any, as may be specified therein, be exercisable also by such officer or authority as may be specified in the notification.

Multimodal transport contract to be made in accordance with this Act.

28. No person registered as a multimodal transport operator shall enter into any contract for multimodal transportation except in accordance with the provisions of this Act and any contract, to the extent it is inconsistent with the said provisions, shall be void and unenforceable.

Act to override other enactments.

29. The provisions of this Act shall effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

Power to make rules.

30. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing provisions, such rules may provide for all or any of the following matters, namely :—

(*a*) the forms in which applications shall be made under section 4;

(*b*) the period within which appeal shall be preferred under sub-section (*1*) of section 6;

(*c*) the form in which an appeal shall be preferred under section 6 and the amount of fee payable in respect of such appeal.

(*d*) dangerous goods for the purpose of section 21;

(*e*) any other matter which is to be, or may be, prescribed.

(*3*) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Amendment of certain enactments.

31. On and from the date of the commencement of this Act, the enactments specified in Pats I, II and III of the Schedule shall be amended in the manner specified therein.

Repeal and savings.

32. (*1*) The Multimodal Transportation of Goods Ordinance, 1993 is hereby repealed. **Ord. 6 of 1993.**

(*2*) Notwithstanding such repeal, anything done or any action taken under the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of this Act.

THE SCHEDULE

(*See* section 31)

AMENDMENT OF CERTAIN ENACTMENTES

PART I

Amendment of the Carriers Act, 1865.

(*3 of 1865*)

In the Carriers Act, 1965,—

(*a*) in section 2, in the definition relating to "common carrier", after the words "engaged in the business of," the words "transporting property under multimodal transport document or of" shall be inserted;

(*b*) in sections 6, 7 and 8, for the words "property delivered", the words and brackets "property (including container, pallet or similar article of transport used to consolidate goods) delivered" shall, respectively, be substituted;

(*c*) in sections 9 and 10, for the words "goods entrusted", the words and brackets "goods (including containeres, pallets or similar article of transport used to consolidate goods) entrusted" shall, respectively, be substituted.

PART II

Amendment of the Indian Carriage of Goods by Sea Act, 1925.

(*26 of 1925*)

In the Indian Carriage of Goods by Sea Act, 1925,—

(*a*) in the Preamble, after the second paragraph, the following paragraph shall be inserted, namely:—

"AND WHEREAS the said rules were amended by the Protocol signed at Brussels on 23rd February, 1968 and by the Protocol signed at Brussels on 21st December, 1979;":

(*b*) in section 7, in sub-section (*1*), for the words and figures "stctions 331 and 352", the words, figures and letteres "section 331 and Part XA" shall be substituted;

(c) in the Scheduld,—

(i) in Article I, in clause (c), after the word "merchandises", the words "containers, pallet or similar article of transport used to consolidate goods if supplied by the shipper," shall be inserted ;

(ii) in Article III,—

(1) in paragraph 4, the following shall be added at the end, namely:—

"However, proof to the contrary shall not be admissible when the bill of landing has been transferred to third party acting in good faith ;

(2) in paragraph 6, in the third sub-paragraph, the following shall be added at the end, namely:—

"This period, may, however, be extended if the parties so agree after the cause of action has arisen :

Provided that suit nay be brought after the expiry of the period of one year referred to in this sub-paragraph within a further period of not more than three months as allowed by the court." ;

(iii) in Article IV, in paragraph 5,—

(1) for the words and figures "amount exceeding 100£ per package or unit.", the words and figures "amount exceeding 666.67 Special Drawing Rights per package or unit or two Secial Drawing Rights per kilograms of gross weight of the goods lost of damaged, whichever is higher" shall be susbsituted ;

(2) after the first sub- paragraph, the following sub-paragraphs shall be insertted, namely:—

"Where a container, pallet or similar article of transport is used to consolidate goods, the number of packages or units enumerated in the bill of lading and as packed in such article of transport shall be deemed to be the number of packages or units for the purposes of this pargraph as far as these packages or units are concerned.

Neither the carrier nor the ship shall be entitled to the benefit of limitation of liability provided for in this pargraph if it is proved that the damage resulted from an act of omission of the carrir done with intent to cause damage, or recklessly and with knowledge that damage would probably result.

Where the nature or value of the goods has been knowingly mis-stated by the shipper in the bill of lading, the liability of the carrier or ship shall not exceed the value so stated."

PART III

Amendment of the Sale of Goods Act, 1930.

(3 of 1930)

In the Sale of Goods Act, 1930,in section 2, in clause (4), after the wrods "railway receip", the woreds "multimodal transport document", shall be inserted.

Sd/—.
SHRI K. L. MOHANPURIA,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

B. K. SHAH,
Secretary to Government.

VI-Extra 34-5

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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The Gujarat Government Gazette

EXTRAORDINARY

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Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART—VI

Acts of Parliament and Ordinances promulgated by the President.

GOVERNMENT OF GUJARAT

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, 15th September, 1993.

No. RP/100/93/26/93/Research.—The following Act of Parliament is re-published for general information :

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
(Legislative Department)

New Delhi, the 2nd April, 1993/Chaitra 12, 1915 (Saka)

The following Act of Parliament received the assent of the President on the 2nd April, 1993 and is hereby published for general information :

THE WILD LIFE (PROTECTION) AMENDMENT ACT, 1993.

[Act No. 26 of 1993] [2nd April, 1993]

AN ACT

further to amend the Wild Life (Protection) Act, 1972.

Be it enacted by Parliment in the Forty-fourth Year of the Republic of India as follows:—

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Short title and commencement. 1. (*1*) This Act may be called the Wild Life (Protection) Amendment Act, 1993.

(*2*) It shall be deemed to have come into force on the 4th day of August, 1992.

Amendment of section 38H. 2. In the Wild Life (Protection) Act, 1972 (hereinafter referred to as the principal Act), in the proviso to sub-section (*1*) of section 38H, for the words "six months from the date of such commencement", the words "eighteen months from the date of such commencement" shall be substituted. **53 of 1972.**

Repeal and saving. 3. (*1*) The Wild Life (Protection) Amendment Ordinance, 1993 is hereby repealed. **Ord. 7 of 1993.**

(*2*) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

(Sd/—)

SHRI K. L. MOHANPURIA,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

B. K. SHAH,
Secretary to the Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART—VI

Acts of Parliament and Ordinances promulgated by the President.

GOVERNMENT OF GUJARAT

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, Dated the 18th October, 1993.

No. RP/118/93/Consti-73/Research.—The following Act, of Parliament is republished for general information :

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE AND COMPANY AFFAIRS.

(Legislative Department)

New Delhi, the 20th April, 1993/Chaitra 30, 1915 (Saka)

The following Act of Parliament received the assent of the President on the 20th April, 1993 and is hereby published for general information :

THE CONSTITUTION (SEVENTY-THIRD AMENDMENT) ACT, 1993.

[20TH APRIL, 1993].

AN ACT

further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows :—

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Short title and commencement.

1. (*1*) This Act may be called the Constitution (Seventy-third Amendement) Act, 1992.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Insertion of new Part IX.

2. After Part VIII of the Constitution, the following Part shall be inserted, namely:—

'PART IX

THE PANCHAYATS

Definitions.

243. In this Part, unless the context otherwise requires,—

(*a*) "district" means a district in a State;

(*b*) "Gram Sabha" means a body consisting of persons registered in the electoral rolls relating to a village comprised within the area of Panchayat at the village level;

(*c*) "intermediate level" means a level between the village and district levels speified by the Governor of a State by public notifiction to be the intermediate level for the purposes of this Part;

(*d*) "Panchayat" means an institution (by whatever name called) of self-government constituted under article 243B, for the rural areas;

(*e*) "Panchayats area" means the territorial area of Panchayat;

(*f*) "population" means the population as ascertained at the last preceding census of which the relevant figure have been published;

(*g*) "village" means a village specified by the Governor by public notification to be a village for the purposes of this Part and includes a group of villages so specified.

Gram Sabha.

243A. A Gram Sabha may exercise such powers and perform such functions at the village level as the Legislature of a State may, by law, provide.

Constitution of Panchayats.

243B. (1) There shall be constituted in every State, Panchayats at the village intermediate and district levels in accordance with the provisions of this Part.

(2) Notwithstanding anything in clause (1), Panchayats at the intermediate level may not be constituted in a State having a population not exceeding twenty lakhs.

Composition of Panchayats.

243C. (1) Subject to the provisions of this Part the Legislature of a State may, by law, make provisions with respect of the comnposition of Panchayats :

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Provided that the ratio between the population of the territorial area of a Panchayat at any level and the number of seats in such Panchayat to be filled by election shall, so far as practicable, be the same throughout the State.

(2) All the seats in a Panchayat shall be filled by persons chosen by direct election from territorial constituencies in the Panchayat area and, for this purpose, each Panchayat area shall be divided into territorial constituencies in such manner that the ratio between the population of each constituency and the number of seats alloted to it shall, so far as practicable, be the same throughout the Panchayat area.

(3) The Legislature of a State may, by law provide for the representation—

(*a*) of the Chairpersons of the Panchayats at the village level, in the Panchayats at the intermediate level or, in the case of a state not having Panchayats at the intermediate level, in the Panchayats at the district level;

(*b*) of the Chairpersons of the Panchayats at the intermediate level, in the Panchayats at the district level ;

(*c*) of the members of the House of the People and the members of the Legislative Assembly of the State representing constituencies which comprise wholly or partly a Panchayat area at a level other than the village level, in such Panchayat;

(d) of the members of the Council of States and the members of the Legislative Council of the State, where they are registered as electors within—

(i) a Panchayat area at the intermediate level, in Panchayat at the intermediate level ;

(ii) a Panchayat area at the district level, in Panchayat at the district level.

(4) The Chairperson of a Panchayat and other members of a Panchayat whether or not chosen by direct election from territorial constituencies in the Panchayat area shall have the right to vote in the meetings of the Panchayats.

(5) The Chairperson of —

(*a*) a Panchayat at the village level shall be elected in such manner as the Legislature of a State may, by law, provide, and

(*b*) a Panchayat at the intermediate level or district level shall be elected by, and from amongst, the elected members thereof.

Reservation of seats.

243D. (1) Seats shall be reserved for—

(*a*) the Scheduled Castes ; and

(*b*) the Scheduled Tribes,

in every Panchayat and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in that Panchayat as the population of the Scheduled Castes in that Panchayat area or of the Scheduled Tribes in that Panchayat the area bears to the total population of that area and such seats may be allotted by rotation to different constituencies in a Panchayat.

(2) Not less than one-third of the total number of seats reserved under clause (1) shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes.

(3) Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Panchayat shall be reserved for women and such seats may be allotted by rotation to different constituencies in a Panchayat.

(4) The offices of the Chairpersons in the Panchayats at the village or any other level shall be reserved for the Scheduled Castes the Scheduled Tribes and women in such manner as the Legislature of a State may, by law, provide :

Provided that the number of offices of Chairpersons reserved for the Scheduled Castes and the Scheduled Tribes in the Panchayats at each level in any State shall bear, as nearly as may be, the same proportion to the total number of such offices in the panchayats at each level as the population of the Scheduled Castes in the State or of the Scheduled Tribes in the State bears to the total population of the State :

Provided further that not less than one-third of the total number of offices of Chairpersons in the Panchayats at each level shall be reserved for women :

Provided also that the number of offices reserved under this clause shall be allotted by rotation to different Panchayats at each level.

(5) The reservation of seats under clauses (1) and (2) and the reservation of offices of Chairpersons (other than the reservation for women) under clause (4) shall cease to have effect on the expiration of the period specified in article 334.

(6) Nothing in this Part shall prevent the Legislature of a State from making any provisions for reservation of seats in any Panchayat or offices of Chairpersons in the Panchayats at any level in favour of backward class of citizens.

Duration of Panchayats etc.

243E. (1) Every Panchayat, unless sooner dissolved under any law for the time being in force, shall continue for five years from the date appointed for its first meeting and no longer.

(2) No amendment of any law for the time being in force shall have the effect of causing dissolution of a Panchayat at any level, which is functioning immediately before such amendment, till the expiration of its duration specified in clause (1).

(3) An election to constitute a Panchayat shall be completed—

(*a*) before the expiry of its duration specified in clause (1);

(*b*) before the expiration of a period of six months from the date of its dissolution:

Provided that where the remainder of the period for which the dissolved Panchayat would have continued is less than six months, it shall not be necessary to hold any election under this clause for constituting the Panchayat for such period.

(4) A Panchayat constituted upon the dissolution of a Panchayat before the expiration of its duration shall continue only for the remainder of the period for which the dissolved Panchayat would have continued under clause (1) had it not been so dissolved.

Disqualifications for membership.

243F. (1) A person shall be disqualified for being chosen as and for being, a member of a Panchayat—

(*a*) if he is so disqualified by or under may law for the time being in force for the purposes of elections to the Legislature of the State concerned :

Provided that no person shall be disqualified on the ground that he is less than twenty-five years of age, if he has attained the age of twenty-one years ;

(*b*) if he is so disqualified by or under any law made by the Legislature of the State.

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(2) If any question arises as to whether a member of a Panchayat has become subject to any of the disqualifications mentioned in clause (*1*), the question shall be referred for the decision of such authority and in such manner as the Legislature of a State may, by law, provide.

Powers, authority and responsibilities of Panchayats.

243G. Subject to the provisions of the Constitution, the Legislature of a State may, by law, endow the Panchayats with such powers and authority as may be necessary to enable them to function as institutions of self-government and such law may contain provisions for the devolution of powers and reponsibilities upon Panchayats as the appropriate level, subject to such conditions as may be specified therein, with respect to—

(*a*) the preparation of plans for economic development and social justice;

(*b*) the implementation of schemes for economic development and social justice as may be entrusted to them including those in relation to the matters listed in the Eleventh Schedule.

Powers to impose taxes by, and Funds of, the Panchayts.

243H. The Legislature of a State may, by law.

(*a*) authorise a Panchayat to levy, collect and appropriate such taxes, duties, tolls and fees in accordance with such procedure and subject to such limits;

(*b*) assign to a Panchayat such taxes, duties, tolls and fees levied and collected by the State Government for such purposes and subject to such conditions and limits;

(*c*) provide for making such grants-in-aid to the Panchayats from the Consolidated Fund of the State; and

(*d*) provide for constitution of such Funds for crediting all moneys received, respectively, by or on behalf of the Panchayats and also for the withdrawal of such moneys therefrom,

as may be specified in the law.

Constitution of Finance Commission to review financial position.

243-I. (*1*) The Governor of a State shall, as soon as may be within one year from the commencement of the Constitution (Seventy-third Amendment) Act, 1992, and thereafter at the expiration of every fifth year, constitutte a Finance Commission to review the financial position of the Panchayats and to make recommendations, to the Governor as to—

(*a*) the principles which should govern—

(*i*) the distribution between the State and the Panchayats of the net proceeds of the taxes, duties, tolls and fees leviable by the State, which may be divided between them under this Part and the allocation between the Panchayats at all levels of their respective shares of such proceeds;

(*ii*) the determination of the taxes, duties, tolls and fees which may be assigned to, or appropriated, by, the Panchayats;

(*iii*) the grants-in-aid to the Panchayats from the Consolidated Fund of the State;

(*b*) the measures needed to improve the financial position of the Panchayats;

(*c*) any other matter referred to the Finance Commission by the Governor in the interests of sound finance of the Panchayats;

(2) The Legislature of a State may, by law, provide for the composition of the Commission, the qualifications which shall be requisite for appointment as members thereof and the manner in which they shall be selected.

(3) The Commission shall determine their procedure and shall have such powers in the performance of their functions as the Legislature of the State may, by law, confer on them.

(4) The Governor shall cause every recommendation made by the Commission under this article together with an explanatory memorandum as to the action taken thereon to be laid before the Legislature of the State.

Audit of accounts of Panchayats.

243J. The Legislature of a State may, by law, make provisions with respect to the maintenance of accounts by the Panchayats and the auditing of such accounts.

Elections to the Panchayats.

243K. (1) The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the Panchayats shall be vested in a State Election Commission consisting of a State Election Commissioner to be appointed by the Governor.

(2) Subject to the provisions of any law made by the Legislature of a State, the conditions of service and tenure of office of the State Election Commissioner shall be such as the Governor may by rule determine;

Provided that the State Election Commissioner shall not be removed from his office except in like manner and on the like grounds as a Judge of a High Court and the conditions of service of the State Election Commissioner shall not be varied to his disadvantage after his appointment.

(3) The Governor of a State shall, when so requested by the State Election Commission, make available to the State Election Commission such staff as may be necessary for the discharge of the functions conferred on the State Election Commission by clause(1).

(4) Subject to the provisions of this Constitution, the Legislature of a State may, by law, make provision with respect to all matters relating to, or in connection with, elections to the Panchayats.

Application to Union territories.

243L. The provisions of this part shall apply to the Union territories and shall, in their application to a Union territory, have effect as if the references to the Governor of a State were references to the Administrator of the Union territory appointed under article 239 and references to the Legislature or the Legislative Assembly of a State were references, in relation to Union territory having a Legislative Assembly, to that Legislative Assembly:

Provided that the President may, by public notification, direct that the provisions of this Part shall apply to any Union territory or part thereof subject to such exceptions and modifications as he may specify in the notification.

Part not to apply to certain areas.

243M. (1) Nothing in this Part shall apply to the Scheduled Areas referred to in clause (1), and the tribal areas referred to in clause (2), of article 244.

(2) Nothing in this Part shall apply to—

(a) the States of Nagaland Meghalaya and Mizoram ;

(b) the Hill Areas in the State of Manipur for which District Councils exist under any law for the time being in force.

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(3) Nothing in the Part—

(*a*) relating to Panchayats at the district level shall apply to the hill areas of the District of Darjeeling in the State of West Bengal for which Darjeeling Gorkha Hill Council exists under any law for the time being in force;

(*b*) shall be construed to affect the functions and powers of the Darjeeling Gorkha Hill Council constituted under such law.

(4) Not withstanding anything in this Constitution,—

(*a*) the Legislature of a State referred to in sub-clause (*a*) of clause (2) may, by law, extend this Part to that State, except the areas, if any, referred to in clause (1), if the Legislative Assembly of that State passes a resolution to that effect by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting ;

(*b*) Parliament may, by law, extend the provisions of this Part to the Scheduled Areas and the tribal areas referred to in clause (1) subject to such exceptions and modifications as may be specified in such law, and no such law shall be deemed to be an amendment of this Constitution for the proposes of article 368.

Continuance of existing laws and Panchayats.

243N. Notwithstanding anything in this Part, any provision of any law relating to Panchayats in force in a State immediately before the commencement of the Constitution (Seventy-third Amedment) Act, 1992, which is inconsistent with the provisions of this Part, shall continue to be in force until amended or repealed by a competent Legislature or other competent authority or until the expiration of one year from such commencement, whichever is earlier:

Provided that all the Panchayats existing immediately before such commencement shall continue till the expiration of their duration, unless sooner dissolved by a resolution passed to that effect by the Legislative Assembly of that State or, in the case of a State having a Legislative Council, by each House of the Legislature of that State.

Bar to interference by courts in electoral matters.

243-O. Notwithstanding anything in this Constitution,—

(*a*) the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies, made or purporting to be made under article 243K, shall not be called in question in any court;

(*b*) no election to any Panchayat shall be called in question except by an election petition presented to such authority and in such manner as is provided for by or under any law made by the Legislature of a State.'.

Amendment of article 280.

3. In clause (3) of article 280 of the Constitution, after sub-clause (b), the following sub-clause shall be inserted, namely:—

"(bb) the measures needed to augment the Consolidated Fund of a State to supplement the resources, of the Panchayats in the State on the basis of the recommendations by the Finance Commission of the State;".

Addition of Eleventh Schedule.

4. After the Tenth Schedule to the Constitution, the following Schedule shall be added, namely:—

"ELEVENTH SCHEDULE

(Article 243G)

1. Agriculture, including agricultural extension.

2. Land improvement, implementation of land reforms, land consolidation and soil conservation.

3. Minor irrigation, water management and watershed development.

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4. Animal husbandry, dairying and poultry.
5. Fisheries.
6. Social forestry and farm forestry.
7. Minor forest produce.
8. Small scale industries, including food processing industries.
9. Khadi, village and cottage industries.
10. Rural housing.
11. Drinking water.
12. Fuel and fodder.
13. Roads, culverts, bridges, ferries, waterways, and other means of communication.
14. Rural electrification, including distribution of electricity.
15. Non-conventional energy sources.
16. Poverty alleviation programme.
17. Education, including primary and secondary schools.
18. Technical training and vocational education.
19. Adult and non-formal education.
20. Libraries.
21. Cultural activities.
22. Markets and fairs.
23. Health and sanitation, including hospitals, primary health centres and dispensaries.
24. Family welfare.
25. Women and child development.
26. Social-welfare, including welfare of the handicapped and mentally retarded.
27. Welfare of the weaker sections, and particulars of the Scheduled Castes and the Scheduled Tribes.
28. Public distribution system.
29. Maintenance of community assets.".

(Sd.)
SHRI K. L. MOHANPURIA,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

R. H. GORI,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, Dated the 18th October, 1993.

No. RP/119/93/Consti-74/Research:-The following Act of Parliament is re-published for general information :

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 20th April, 1993/Chaitra 30,1915(Saka)

The following Act of Parliament received the assent of the President on the 20th April, 1993 and is hereby published for general information:

THE CONSTITUTION (SEVENTY-FOURTH AMENDMENT) ACT, 1993.

[20th April, 1993]

AN ACT

further to amend the Constitution of India.

Be it enacted by Parliament in the Forty-third Year of the Republic of India as follows :-

1. (1) This Act may be called the Constitution (Seventy-fourth Amendment) Act, 1992. Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

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Insertion of new Part IXA.

2. After Part IX of the Constitution, the following Part shall be inserted, namely :—

PART IXA

THE MUNICIPALITIES

Defini-tions.

243P. In this Part, unless the context otherwise requires,—

(*a*) "Committee" means a Committee constituted under article 243S;

(*b*) "district" means a district in a State;

(*c*) "Metropolitan area" means an area having a population of ten lakhs or more comprised in one or more districts and consisting of two or more Municipalities or Panchayats or other contiguous areas, specified by the Governor by public notification to be a Metropolitan area for the purposes of this Part;

(*d*) "Municipal area" means the territorial area of a Municipality as is notified by the Governor;

(*e*) "Municipality" means an institution of self-government constituted under article 243Q;

(*f*) "Panchayat" means a Panchayat constituted under article 234B;

(*g*) "population" means the population as ascertained at the last preceding census of which the relevent figures have been published.

Constitu-tion of Munici-palities.

243Q. (1) There shall be constituted in every State,—

(*a*) a Nagar Panchayat (by whatever name called) for a transitional area, that is to say, an area in transition from a rural area to an urban area;

(*b*) a Municipal Council for a smaller urban area; and

(*c*) a Municipal Corporation for a larger urban area,

in accordance with the provisions of this Part:

Provided that a Municipality under this clause may not be constituted in such urban area or part thereof as the Governor may, having regard to the size of the area and the municipal services being provided or proposed to be provided by an industrial establishment in that area and such other factors as he may deem fit, by public notification, specify to be an industrial township.

(2) In this article, "a transitional area", "a smaller urban area" or "a larger urban area" means such area as the Governor may, having regard to the population of the area, the density of the polupation therein, the revenue generated for local administration, the percentage of employment in non-agricultural activities, the economic importance or such other factors as he may deem fit, specify by public notification for the purposes of this Part.

Composi-tion of Munici-palities.

243R. (1) Save as provided in clause (2), all the seats in a Municipality shall be filled by persons chosen by direct election from the territorial constituencies in the Municipal area and for this purpose each Municipal area shall be divided into territorial constituencies to be known as wards.

(2) The Legislature of a State may, by law, provide—

(*a*) for the representation in a Municipality of—

(*i*) persons having special knowledge or experience in Municipal administration;

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(*ii*) the members of the House of the People and the members of the Legislative Assembly of the State representing constituencies which comprise wholly or partly the Municipal area;

(*iii*) the members of the Council of States and the members of the Legislative Council of the State registered as electors within the Municipal area;

(*iv*) the Chairpersons of the Committees constituted under clause (5) of article 243S:

Provided that the persons referred to in paragraph (*i*) shall not have the right to vote in the meetings of the Municipality;

(*b*) the manner of election of the Chairperson of a Municipality.

Constitution and composition of Wards Committees, etc.

243S. (1) There shall be consituted Wards Committees, consisting of one or more wards, within the territorial area of a Municipality having a population of three lakhs or more.

(2) The Legislature of a State may, by law, make provision with respect to—

(*a*) the composition and the territorial area of a Wards Committee;

(*b*) the manner in which the seats in a Wards Committee shall be filled.

(3) A member of a Municipality representing a ward within the territorial are a of the Wards Committee shall be a member of that Committee.

(4) Where a Wards Committee consists of—

(*a*) one ward, the member representing that ward in the Municipality; or

(*b*) two or more wards, one of the members representing such wards in the Municipality elected by the members of the Wards Committee,

shall be the Chairperson of the Committee.

(5) Noting in this article shall be deemed to prevent the Legislature of a State from making any provision for the constitution of Committees in addition to the Wards Committees.

Reservation of seats.

243T. (1) Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes in every Municipality and the number of seats so reserved shall bear, as nearly as may be the same proportion to the total number of seats to be filled by direct election in that Municipality as the population of the Scheduled Castes in the Municipal area or of the Scheduled Tribes in the Municipal area bears to the total population of that area and such seats may be allotted by rotation to defferent consistuencies in a Municipality.

(2) Not less than one third of the total number of seats reserved under clause (1) shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes.

(3) Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Municipality shall be reserved for women and such seats may be alloted by rotation to different constituencies in a Municipality.

(4) The offices of Chairpersons in the Municipalities shall be reserved for the Scheduled Castes, the Scheduled Tribes and women in such manner as the Legislature of a State may, by law, provide.

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(5) The reservation of seats under clauses (1) and (2) and the reservation of offices of Chairpersons (other than the reservation for women) under clause (4) shall cease to have effect on the expiration of the period specified in article 334.

(6) Nothing in this Part shall prevent the Legislature of State from making any provision for reservation of seats in any Municipality or offices of Chairpersons in the Municipalities in favour of backward class of citizens.

Duration of Municipalities, etc.

243U. (1) Every Municipality, unless sooner dissolved under any law for the time being in force, shall continue for five years from the date appointed for its first meeting and no longer :

Provided that a Municipality shall be given a resonable opportunity of being heard before its dissolution.

(2) No amendment of any law for the time being in force shall have the effect of causing dissolution of a Municipality at any level, which is functioning immediately before such amendment, till the expiration of its duration specified in clause(1).

(3) An election to constitute a Municipality shall be completed,—

(*a*) before the expiry of its duration specified in clause (1);

(*b*) before the expiration of period of six months from the date of its dissolution:

Provided that where the remainder of the period for which the dissolved Municipality whould have continued is less than six months, it shall not be neccessary to hold any election under this clause for constituting the Municipality for such period.

(4) A Municipality constituted upon the dissolution of a Municipality before the expiration of its duration shall continue only for the remainder of the period for which the dissolved Municipality would have continued under clause (1) had it not been so dissolved.

Disqualifications for membership.

243V. (1) A person shall be disqualified for being chosen as, and for being, a member of a Municipality—

(*a*) if he is so disqualified by or under any law for the time being in force for the purposes of elections to the Legislature of the State concerned;

Provided that no person shall be disqualified on the ground that he is less than twenty-five years of age, if he has attained the age twenty-one years;

(*b*) if he is so disqualified by or under any law made by the Legislature of the State.

(2) If any question arises as to whether a member of a Municipality has become subject to any of the disqualifications mentioned in clause (1), the question shall be referred for the dicision of such authority and in such manner as the Legislature of a State may, by law, provide.

Powers, authority and responsibilities of Municipalities, etc.

243W. Subject to the provisions of this Constitution, the Legislature of a State may, by law, endow—

(*a*) the Municipalities with such powers and authority as may be necessary to enable them to function as institutions of self-government and such law may contain provisions for the devolution of powers and responsibilities upon Miunicipalities, subject to such conditions as may be specified threin, with respect to—

(*i*) the preparation of plants for economic development and social justice;

(*ii*) the performance of functions and the implementation of schemes as may be entrusted to them including those in relation to the matters listed in the Twelfth Schedule;

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(*b*) the Committees with such powers and authority as may be necessary to enable them to carry out the repsponsibilities conferred upon them including those in relation to the matters listed in the Twefth Schedule.

Power to impose taxes by, and Funds of, the Municipalities.

243X. The Legislature of a State may, by law,—

(*a*) authorise a Municipality to levy, collect and appropriate such taxes, duties, tolls and fees in accordance with such procedure and subject to such limits;

(*b*) assign to a Municipality such taxes, duties, tolls and fees levid and collected by the State Government for such purposes and subject to such conditions and limits;

(*c*) provide for making such grants-in-aid to the Municipalities from the Consolidated Fund to the State; and

(*d*) provide for constitution of such Funds for crediting all moneys received, respectively, by or on behalf of the Municipalities and also for the withdrawal of such moneys therefrom,

as may be specified in the law.

Finance Commission.

243Y. (1) The Finance Commission constituted under article 243-I shall also review the financial position of the Municipalities and make recommendations to the Governor as to—

(*a*) the principles which should govern—

(*i*) the distribution between the State and the Municipalities of the net proceeds of the taxes, duties, tolls and fees leviable by the State, which may be divided between them under this Part and the allocation between the Municipalities at all levels of their respective shares of such proceeds;

(*ii*) the determination of the taxes, duties, tolls and fees which may be assigned to, or appropriated by, the Municipalities;

(*iii*) the grants-in-aid to the Municipalities from the Consolidated Fund of the State;

(*b*) the measures needed to improve the financial position of the Municipalities;

(*c*) any other matter referred to the Finance Commission by the Governor in the interests of sound finance of the Municipalities.

(2) The Governor shall cause every recommendation made by the Commission under this article together with an explanatory memorandum as to the action taken thereon to be laid before the Legislature of the State.

Audit of accounts of Municipalities.

243Z. The Legislature of a State may, by law, make provisions with respect to the maintenance of accounts by the Municipalities and the auditing of such accounts.

Elections to the Municipalities.

243Z. (1) The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the Municipalities shall be vested in the State Election Commission referred to in article 243K.

(2) Subject to the provisions to this Constitutions, the Legislature of a State may, by law, make provision with respect to all matters relating to, or in connection with, elections to the Municipalities.

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Application to Union territories.

243ZB. The provisions of this Part shall apply to the Union territories and shall, in their application to a Union territory, have effect as if the references to the Governor of a State were references to the Administrator of the Union territory appointed under article 239 and references to the Legislature or the Legislative Assembly of a State were references in relation to a Union territory having a Legislative Assembly, to that Legislative Assembly:

Provided that the President may, by public notification, direct that the provisions of this Part shall apply to any Union territory or part thereof subject to such exceptions and modifications as he may specify in the notification.

Part not to apply to certain areas.

243ZC. (1) Nothing in this Part shall apply to the Scheduled Areas referred to in clause (1), and the tribal areas referred to in clause (2), of article 244.

(2) Nothing in this Part shall be construed to affect the functions and powers of the Darjeeling Gorkha Hill Council constituted under any law for the time being in force for the hill areas of the district of Darjeeling in the State of West Bengal.

(3) Notwithstanding anything in this Constitution, Parliament may, by law, extend the provisions of this Part to the Schedule Areas and the tribal areas referred to in clause (1) subject to such exceptions and modifications as may be specified in such law, and no such law shall be deemed to be an amendment of this Constitution for the purposes of article 368.

Committee for district planning.

243ZD. (1) There shall be constituted in every State at the district level a District Planning Committee to Consolidate the plans prepared by the Panchayats and the Municipalities in the district and to prepare a draft development plan for the district as a whole.

(2) The Legislature of a State may, by law, make provision with respect to—

(*a*) the composition of the District Planning Committees;

(*b*) the manner in which the seats in such Committees shall be filled:

Provided that not less than four-fifths of the total number of members of such Committee shall be elected by, and from amongst, the elected members of the Panchayat at the district level and of the Municipalities in the district in proportion to the ratio between the population of the rural areas and of the urban areas in the district;

(*c*) the functions relating to district planning which may be assigned to such Committees;

(*d*) the manner in which the Chairpersons of such Committees shall be chosen.

(3) Every District Planning Committee shall, in preparing the draft development plan,—

(*a*) have regard to—

(*i*) matters of common interest between the Panchayats and the Municipalities including spatial planning, sharing of water and other physical and natural resources, the integrated development of infrastructure and environmental conservation;

(*ii*) the extent and type of available resources whether financial or otherwise;

(*b*) consult such institutions and organisations as the Governor may, by order, specify.

(4) The Chairperson of every District Planning Committe shall forward the development plan, as recommended by such Committee, to the Government of the State.

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243ZE. (1) There shall be constituted in every Metropolitan area a Metropolitan Planning Committee to prepare a draft development plan for the Metropolitan area as a whole.

Committee for Metropolitan planning.

(2) The Legislature of a State may, by law, make provision with respect to—

(*a*) the composition of the Metropolitan Planning Committees;

(*b*) the manner in which the seats in such Committees shall be filled:

Provided that not less than two-thirds of the members of such Committee shall be elected by, and from amongst, the elected members of the Municipalities and Chairpersons of the Panchayats in the Metropolitan area in proportion to the ratio between the population of the Municipalities and of the Panchayats in that area;

(*c*) the representation in such Committees of the Government of India and the Government of the State and of such organisations and institutions as may be deemed necessary for carrying out the functions assigned to such Committees;

(*d*) the functions relating to planning and coordination for the Metropolitan area which may be assigned to such Committees;

(*e*) the manner in which the Chairpersons of such Committees shall be chosen.

(3) Every Metropolitan Planning Committee shall, in preparing the draft development plan—

(*a*) have regard to—

(*i*) the plans prepared by the Municipalities and the Panchayats in the Metropolitan area,

(*ii*) matters of common interest between the Municipalities and the Panchayats, including co-ordinated spatial planning of the area, sharing of water and other physical and natural resources, the integrated development of infrastructure and environmental conservation;

(*iii*) the overall objectives and priorities set by the Government of India and the Government of the State;

(*iv*) the extent and nature of investments likely to be made in the Metropolitan area by agencies of the Government of India and of the Government of the State and other available resources whether financial or otherwise;

(*b*) consult such institutions and organisations as the Governor may, by order, specify:

(4) The Chairperson of every Metropolitan Planning Committee shall forward the development plan, as recommended by such Committee, to the Government of the State.

243ZF. Notwithstanding anything in this Part, any provision of any law relating to Municipalities in force in a State immediately before the commencement of the Constitution (Seventy-fourth Amendment) Act, 1992, which is inconsistent with the provisions of this Part, shall continue to be in force until amended or repealed by a competent Legislature or other competent authority or until the expiration of one year from such commencement, whichever is earlier;

Continuance of existing laws and Municipalities.

Provided that all the Municipalities existing immediatly before such commencement shall continue till the expiration of their duration, unless sooner dissolved by a resolution passed to that effect by the Legislative Assembly of that State or, in the case of a State having a Legislative Council, by each House of the Legislature of that State.

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Bar to interference courts in electoral matters.

243ZG. Notwithstanding anything in this Constitution,—

(*a*) the validity of any law relating to the delimimtation of constituenceis or the allotment of seats to such constituencies, made or purporting to be made under article 243ZA shall not be called in question in any court;

(*b*) no election to any Municipality shall be called in question except by an election petition presented to such authority and in such manner as is provided for by or under any law made by the Legislature of a State.

Amendment of article 280.

3. In clause (3) of article 280 of the Constitution, sub-clause (*c*) shall be relettered as sub-clause (*d*) and before sub-clause (*d*) as so relettered, the following sub-clause shall be inserted, namely:–

"(*c*) the measures needed to augment the Consolidated Fund of a State to supplement the resources of the Municipalities in the State on the basis of the recommendations made by the Finance Commission of the State,."

Addition of Twelfth Schedule.

4. After the Eleventh Schedule to the Constitution, the following Schedule shall be added, namely:—

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"TWELFTH SCHDULE

(Article 243W)

1. Urban planning including town planning.
2. Regulation of land-use and construction of buildings.
3. Planning for economic and social development.
4. Roads and bridges.
5. Water supply for domestic, industrial and commercial purposes.
6. Public health, sanitation conservancy and solid waste management.
7. Fire services.
8. Urban forestry, protection of the environment and promotion of ecological aspects.
9. Safeguarding the interests of weaker sections of society, including the handicapped and mentally retarded.
10. Slum improvement and upgradation.
11. Urban poverty alleviation.
12. Provision of urban amenities and facilities such as parks, gardens, playgrounds.
13. Promotion of cultural, educational and aesthetic aspects.
14. Burials and burial grounds; cremations, cremation grounds and electric crematoriums.
15. Cattle pounds; prevention of cruelty to animals.
16. Vital statistics including registration of births and deaths.
17. Public amenities including street lighting, parking lots, bus stops and public conveniences.
18. Regulation of slaughter houses and tanneries."

Sd/-
SHRI K. L. MOHANPURIA,

Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

R. H. GORI,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar 30th October, 1993.

No. RP/121/93/34/93/Research.—The following Act of Parliament is re-published for general information :

GOVERNMENT OF INDIA,

Ministry of Law, Justice and Company Affairs

(Legislative Department)

New Delhi, the 3rd April, 1993 /Chaitra 13, 1915(Saka).

The following Act of Parliament received the assent of the President on the 3rd April, 1993 and is hereby published for general information :

THE ESSENTIAL COMMODITIES (SPECIAL PROVISIONS) AMENDMENT ACT, 1993.

[Act No. 34 of 1993.] [3rd April, 1993.]

AN ACT

further to amend the Essential Commodities (Special Provision) Act, 1981 and to make special provisions by way of amendment to the Essential Commodities Act, 1955.

Be it enacted by Parliament in the Forty-fourth Year of the Republic of India as follows:—

Short title and commencement.

1. *(1)* This Act may be called the Eessential Commodities (Special Provisions) Amendment Act, 1993.

(2) It shall be deemed to have come into force on the 27th day of August, 1992.

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Amendment of preamble.

2. In paragraph 2 of the preamble to the Essential Commodities(Special Provisions) Act, 1981 (hereinafter referred to as the principal Act), for the words "ten years" the words "fifteen years" shall be substituted.

18 of 1981

Amendment of section 1.

3. In section 1 of the principal Act, in sub-section (*3*), for the words "ten years" the words "fifteen years" shall be substituted.

Insertion of new section 9A

4. After section 9 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 10AA.

"9.A. In the Essential Commodities Act, 1955, after section 10A, the following section shall be inserted, namely:—

10 of 1955.

Power to arrest.

> "10AA Notwith standing anything contained in the Code of Criminal Procedure, 1973, no officer below the rank of an officer in charge of Police station or any police officer authorised by him in this behalf in writing, shall arrest any person accused of committing an offence punishable under this Act.",

2 of 1974.

Repeal and saving.

5. (*1*) The Essential Commodities (Special Provisions) Amendment Ordinance, 1993 is hereby repealed.

Ord. 1 of 1993.

(*2*) Notwitnstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act, as amended by this Act.

SHRI B. R. ATRE,
Joint Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

R. H. GORI,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, 30th October, 1993.

No. RP/123/93/41/93/RCS.—The following Act of Parliament is re-published for general information.

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 22nd May, 1993/Jayestha, 1, 1915 (Saka)

The following Act of Parliament received the assent of the president on the 22nd May, 1993 and is hereby published for general information.

THE BEEDI AND CIGAR WORKERS (CONDITIONS OF EMPLOYMENT) AMENDMENT ACT, 1993.

AN ACT

(No. 41 of 1993) (22nd May, 1993)

to amend the Beedi and Cigar Workers (Conditions of Employment) Act, 1966.

Be it enacted by Parliament in the Forty-fourth Year of the Republic of India as follows:—

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Short title and commencement.

1. (*1*) This Act may be called the Beedi and Cigar Workers (Conditions of Employment) Amendment Act, 1993.

(*2*) It shall come into force in a State on such date as the State Government may, by notification in the Official Gazette, appoint and different dates may be appointed by the State Government for different areas and for different provisions of this Act.

Amendment of section 2.

2. In section 2 of the Beedi and Cigar Workers (Conditions of Employment) Act, 1966 (heeinafter referred to as the principal Act),— 32 of [illegible]

(*a*) in clause (*f*),—

(*i*) in the opening paragraph, after the word "establishment", the words "or godown" shall be inserted;

(*ii*) in sub-clause (*ii*), after the words "or contractor", the words "or both" shall be inserted;

(*b*) after clause (*h*), the following clause shall be inserted, namely :—

'(*hh*) "godown" means any warehouse or other place, by whatever name called, used for the storage of—

(*i*) any article or substance required for any manufacturing process; or

(*ii*) beedi or cigar or both;';

(c) in clause (*i*), the words "and includes a godown attached thereto" shall be added at the end.

Insertion of new section 7A.

3. After section 7 of the principal Act, the following section shall be inserted namely:—

Inspector not to disclose the source of any complaint etc.

"7A. (*1*) No Inspector shall disclose the source of any complaint made to him regarding the contravention of any of the provisions of this Act.

(*2*) No Inspector shall, while making an inspection under this Act in pursuance of a complaint received by him, disclose to the employer or contractor concerned or any of his representatives that the inspection is being made in pursuance of a complaint:

Provided that nothing in this section shall apply to any case in which the person who has made the complaint has consented to disclose his name.".

Amendment of section 14.

4. In section 14 of the principal Act, in sub-section (*1*), for the word "fifty", the word "thirty" shall be substituted.

Amendment of section 18.

5. In section 18 of the principal Act, after sub-section (*2*), the following Explanation shall be inserted, namely:—

"*Explanation.*—Where an employee had not worked on any day of the week immediately preceding the week in which the overtime work has been done, any week preceding such week in which he had actually worked shall be taken into account in calculting the overaime rate for the purposes of this sub-section."

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Amendment of section 21.

6. In section 21 of the principal Act, to sub-section (*1*), the following proviso shall be added, namely:—

> "Provided that a copy of every such notice shall be sent to the Inspector having jurisdiction over the industrial premises within two weeks from the date on which such notice is exhibited in the industrial premises.".

Amendment of section 31.

7. In section 31 of the principal Act, after sub-section (*2*), the following sub-section shall be inserted, namely:—

5 of 1908.

> "(*2A*) The appellate authority shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, when trying a suit, in respect of the following matters, namely:—
>
> (*a*) enforcing the attendance of any person and examining him on oath; and
>
> (*b*) compelling the production of documents and material objects.".

Amendment of section 32.

8. In section 32 of the principal Act, for the words "three months" and "five hundred rupees", the words "six months" and five thousand rupees" shall, respectively, be substituted.

Amendment of section 39.

9. In section 39 of the principal Act in sub-section (*2*), for the portion beginning with the words "shall be settled" and ending with the words "specify in this behalf", the following shall be substituted, namely:—

> "shall be referred for settlement within such time and by such authority as the State Government may, by rules, specify in this behalf and such rules may also provide for the summary manner in which such dispute shall be settled.".

Amendment of section 44.

10. In section 44 of the principal Act, in sub-section (*2*), in clause (*w*), for the words "authority by which and the manner in which a dispute as to the issue of raw materials shall be settled", the words "the time within which a dispute specified in sub-section (*2*) of section 39 shall be referred for settlement, the authority by which and the summary manner in which such dispute shall be settled" shall be substituted.

Shri K. L. Mohanpuria,
Secretary to the Government of India,

By order and in the name of the Governor of Gujarat,

R. H. GORI,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, 30th October, 1993.

No. RP/127/93/47/93/RCS.—The following Act of Parliament is re-published for general information ;

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS,

(Legislative Department)

New Delhi, the 9th June, 1993/Jayestha 19, 1915 (Saka)

The following Act of Parliament received the assent of the President on the 9th June, 1993 and is hereby published for general information ;

THE COAL MINES (NATIONALISATION) AMENDMENT, 1993

(Act No. 47 of 1993) [9th June, 1993.]

AN ACT

further to amend the Coal Mines (Nationalisation) Act, 1973.

BE it enacted by Parliament in the Forty-fourth Year of the Republic of India as follows:—

1. This Act may be called the Coal Mines (Nationalisation) Amendment Act, 1993. Short title.

2. In the Coal Mines (Nationalisation) Act, 1973, in section 3, in sub-section (*3*), in clause (*a*), for item (*iii*), the following shall be substituted namely:— Amendment of section 3 of Act 26 of 1973.

(*iii*) a company engaged in—

(*1*) the production of iron an steel,

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(*2*) generation of power,

(*3*) washing of coal obtained from a mine, or

(*4*) such other and use as the Central Government may, by notification, specify,".

K. L. MOHANPURIA,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

R. H. GORI,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, 30th October, 1993.

No. RP/140/93/12/92/RCS. The following Act of Parliament is re-published for general information :

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 31st March, 1992/Chaitra 11, 1914 (Saka)

The following Act of Parliament received the assent of the President on the 31st March, 1992, and is hereby published for general information :—

THE DESTRUCTIVE INSECTS AND PESTS (AMENDMENT AND VALIDATION) ACT, 1992

NO. 12 OF 1992

[*31st March, 1992.*]

AN ACT

Further to amend the Destructive Insects and Pests Act 1914.

Be it enacted by Parliament in the Forty-third Year of the Republic of India as follows :—

1. (*1*) This Act may be called the Destructive Insects and Pests (Amendment and Validation) Act, 1992. Short title and commencement.

(*2*) It shall be deemed to have come into force on the 27th day of October, 1989.

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Amendment of section 3 of Act 2 of 1914.

2. In section 3 of the Destructive Insects and Pests Act, 1914 (hereinafter referred to as the principal Act), after sub-section (*2*), the following sub-section shall be inserted, namely :—

> "(*3*) The Central Government may, by notification under this section, also levy and collect such fees at such rates and in such manner as may be specified therein for making an application for a permit to import, or for making inspection, fumigation, disinfection, disinfestation or supervision of, any article or class of articles or any insect or class of insects under this section.".

Validation.

3. (*1*) Notwithstanding any judgement, decree or order of any court, tribunal or other authority,—

(*i*) the notification No. S.O. 867(E), dated the 27th October, 1989 issued under sub-section (*1*) of section 3 of the principal Act, and

(*ii*) any fees levied or collected or purported to have been levied or collected for making an application for a permit to import, or for making inspection, fumigation, disinfection, disinfestation or supervision of, any article or class of articles or any insect or class of insects under the principal Act or the said notification,

shall, for all purposes, be deemed to be and to have always been validly issued or, as the case may be, levied or collected in accordance with the provisions of section 3 of the principal Act as amended by this Act; and accordingly—

(*a*) no suit or other proceeding shall be maintained or continued in any court for the refund of any fees so collected;

(*b*) no court or other authority shall enforce any decree or order directing the refund of any fees so collected;

(*c*) any fees levied or purported to have been levied but not collected, may be recovered under the principal Act as amended by this Act; and

(*d*) anything done or any action taken or purported to have been done or taken under or for the purposes of the principal Act shall be deemed to have been validly done or taken in accordance with law as if the provisions of section 3 of the principal Act, as amended by this Act, had been in force at all material times.

(*2*) For the removal of doubts, it is hereby declared that nothing in sub-section (*1*) shall be construed as preventing any person—

(*a*) from questioning in accordance with the provisions of the principal Act, as amended by this Act, or the notification issued under section 3 of the principal Act, the levy or collection of such fees; or

(*b*) from claiming refund of any fees paid by him in excess of the amount due from him under the principal Act, as amended by this Act, or the said notification.

Repeal and saving.

4. (*1*) The Destructive Insects and Pests (Amendment and Validation) Ordinance, 1992 is hereby repealed.

Ord. 4 of 1992.

(*2*) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

K. L. MOHANPURIA,
Secy. to the Govt. of India.

By order and in the name of the Governor of Gujarat,

R. H. GORI,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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Sachivalaya, Gandhinagar, 30th October, 1993.

No. RP/147/93/19/92/RCS.—The following Act of Parliament is re-publi for general information.

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 17th May, 1992, Vaisakha 27, 1914 (Saka)

The following Act of Parliament received the assent of the President on the 17th May, 1992, and is here by published for general information:-

THE NATIONAL COMMISSION FOR MINORITIES ACT, 1992

No. 19 of 1992

[*17th May, 1992*]

An Act to constitute a National Commission for Minorities and to provide for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Forty-third year of the Republic of India as follows.-

CHAPTER-I

Preliminary

Short title, extent and commencement

1. (*1*) This Act may be called the National Commission for Minorities Act, 1992.

(*2*) It extends to the whole of India except the State of Jammu and Kashmir.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions

2. In this Act, unless the context otherwise requires,—

(*a*) "Commission" means the National Commission for Minorities constituted under section 3;

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(*b*) "Member" means a Member of the Commission;

(*c*) "minority", for the purposes of this Act, means a community notified as such by the Central Government;

(*d*) "prescribed" means prescribed by rules made under this Act.

CHAPTER II

THE NATIONAL COMMISSION FOR MINORITIES

Constitution of the National Commission for Minorities.

3. (*1*) The Central Government shall constitute a body to be known as the National Commission for Minorities to exercise the powers conferred on, and to perform the functions assigned to, it under this Act.

(*2*) The Commission shall consist of a Chairperson and six Members to be nominated by the Central Government from amongst persons of eminence, ability and integrity;

Provided that five Members including the Chairpersons shall be from amongst the minority communities.

Term of office and conditions of service of Chairperson and Members.

4. (*1*) The Chairperson and every Member shall hold office for a term of three years from the date he assumes office.

(*2*) The Chairperson or a Member may, by writing under his hand addressed to the Central Government, resign from the office of Chairperson or, as the case may be, of the Member at any time.

(*3*) The Central Government shall remove a person from the office of Chairperson or a Member referred to in sub-section (*2*) if that person—

(*a*) becomes an undischarged insolvent;

(*b*) is convicted and sentenced to imprisonment for an offence which, in the opinion of the Central Government, involves moral turpitude;

(*c*) becomes of unsound mind and stands so declared by a competent court;

(*d*) refuses to act or becomes incapable of acting;

(*e*) is, without obtaining leave of absence from the Commission, absent from three consecutive meetings of the Commission; or

(*f*) has, in the opinion of the Central Government, so abused the position of Chairperson or Member as to render that person's continuance in office detrimental to the interests of minorities or the public interest.

Provided that no person shall be removed under this clause until that person has been given a reasonable opportunity of being heard in the matter.

(*4*) A vacancy caused under sub-section (*2*) or otherwise shall be filled by fresh nomination.

(*5*) The salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and Members shall be such as may be prescribed.

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Officers and other employees of the Commission.

5. (*1*) The Central Government shall provide the Commission with a Secretary and such other officers and employees as may be necessary for the efficient performance of the functions of the Commission under this Act.

(*2*) The salaries and allowances payable to, and the other terms and conditions of service of, the officers and other employees appointed for the purpose of the Commission shall be such as may be prescribed.

Salaries and allowances to be paid out of grants.

6. The salaries and allowances payable to the Chairperson and Members and the administrative expenses, icluding salaries, allowances and pensions payable to the officers and other employees referred to in section 5, shall be paid out of the grants referred to in sub-section (*1*) of section 10.

Vacancies, etc, not to in validate proceedings of the Commission.

7. No act or proceeding of the Commission shall be questioned or shall be invalid merely on the ground of the existence of any vacancy or defect in the constitution of the Commission.

Procedure to be regulated by the Commission.

8. (*1*) The Commission shall meet as and when necessary at such time and place as the Chairperson may think fit.

(*2*) The Commission shall regulate its own procedure.

(*3*) All orders and decisions of the Commission shall be authenticated by the Secretary or any other officer of the Commission duly authorised by the Secretary in this beffalf.

CHAPTER III

FUNCTIONS OF THE COMMISSION

Functions of the Commission.

9. (*1*) The Commission shall perform all or any of the followig functions, namely:–

(*a*) evaluate the progress of the development of minorities under the Union and States;

(*b*) monitor the working of the safeguards provided in the Constitution and in laws enacted by Parliament and the State Legislatures;

(*c*) make recommendations for the effective implementation of safeguards for the protection of the interests of minorities by the Central Government or the State Government;

(*d*) look into specific complaints regarding deprivation of rights and safeguards of the minorities and take up such matters with the appropriate authorities;

(*e*) cause studies to be undertaken into problems arising out of any discrimination against minorities and recommend measures for their removal.

(*f*) conduct studies, research and analysis on the issues relatig to socio-economic and educational development of minorities;

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(*g*) suggest appropriate measures in respect of any minority to be undertaken by the Central Government or the State Governments.

(*h*) make periodical or special reports to the Central Government on any matter pertaining to minorities and in particular difficulties confronted by them; and

(*i*) any other matter which may be referred to it by the Central Government.

(*2*) The Central Government shall cause the recommendations referred to in clause (*c*) of sub-section (*1*) to be laid before each House of Parliament along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the Union and the reasons for the non-acceptance, if any, of any of such recommendations.

(*3*) Where any recommendation referred to in clause (*c*) of Sub-section (*1*) or any part thereof with which any State Government is concerned, the Commission shall forward a copy of such recommendation or part to such State Government who shall cause it to be laid before the Legislature of the State along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the State and the reasons for the non-acceptance, if any, of any of such recommendation or part.

(*4*) The Commission shall, while performing any of the functions mentioned in sub-clauses (*a*), (*b*) and (*d*) of sub-section (*1*), have all the powers of a civil court trying a suit and in particular, in respect of the following matters, namely:—

(*a*) summoning and enforcing the attendance of any person from any part of India and examning him on oath;

(*b*) requiring the discovery and production of any document;

(*c*) receiving evideance on affidavits;

(*d*) requisitioning any public record or copy thereof from any court or office;

(*e*) issuing commissions for the examination of witnesses and documents; and

(*f*) any other matter which may be prescribed.

CHAPETER IV

FINANCE, ACCOUNTS AND AUDIT

Grants by the Central Government.

10. (*1*) The Central Government shall, after due appropriation made by Parliament by law in this behalf, pay to the Commission by way of grants such sums of money as the Central Government may think fit for being utilised for the purposes of this Act.

(*2*) The Commission may spend such sums as it thinks fit for performing the functions under this Act, such sums shall be treated as expenditure payable out of the grants referred to in sub-section (*1*).

Accounts and audit.

11. (*1*) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(*2*) The accounts of the Commission shall be audited by the Comptroller and Auditor-General at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Commission to the Comptroller and Auditor-General.

(*3*) The Comptroller and Auditor-General and any person appointed by him in connection with the audit of the accounts of the Commission under this Act shall have the same rights and privileges and the authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Commission.

Annual report.

12. The Commission shall prepare, in such form and at such time, for each financial year, as may be prescribed, its annual report, giving a full account of its activities during the previous financial year and forward a copy thereof to the Central Government.

Annual report and audit report to be laid before Parliament.

13. The Central Government shall cause the annual report together with a memorandum of action taken on the recommendations contained therein, in so far as they relate to the Central Government, and the reasons for the non-acceptance, if any, of any of such recommendations and the audit report to be laid as soon as may be after the reports are received, before each House of Parliament.

CHAPTER V

MISCELLANEOUS

Chairperson, Members and staff of the Commission to be public servants.

45 of 1960

14. The Chairperson, Members and employees of the Commission shall be deemed to be public servants within the meaning of section 21 of the India Penal Code.

Power to make rules.

15. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carying out the provisons of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely,—

(*a*) salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and Members under sub-section (*5*) of section 4 and of officers and other employees under sub-section (2) of section 5;

(*b*) any other matter under clause (*f*) of sub-section (*4*) of section 9;

(*c*) the form in which the annual statement of accounts shall be maintained under sub-section (*1*) of section 11.

(*d*) the form in, and the time at, which the annual report shall be prepared under section 12;

(*e*) any other matter which is required to be, or may be, prescribed.

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(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power to remove difficulties.

16. (1) If any difficulty arises in givig effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act as appear to be necessary or expedient for removing the difficulty :

Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

A. C. C. UNNI,
Additional Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

R. H. GORI,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, 30th October, 1993.

No. RP/130/93/2/92/Research.—The following Act of Parliament is -republished for general information :—

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 26th March, 1992/Chaitra 6, 1914 (Saka).

The following Act of Parliament received the assent of the President in the 26th March, 1992, and is hereby published for egeneral information :—

THE REPRESENTATION OF THE PEOPLE (AMENDMENT) ACT, 1992.

[Act, No. 2 of 1992] **[26th March, 1992].**

AN ACT

further to amend the Representation of the People Act, 1951.

Be it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Representation of the People (Amendment) Act, 1992. Short title and commencement.

(2) It shall be deemed to have come into force on the 4th day of January, 1992.

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Substitution of new section for section 52.

2. In the Representation of the People Act, 1951 (hereinafter referred to as the principal Act), for section 52, the following section shall be substistuted, namely:—

Death of candidate before the poll.

'52. If a candidate, set up by a recognised, political party,— 43 of 1951.

(*a*) dies at any time after 11 A.M. in the last date for making nominations and his nomination is found valid on scrutiny under section 36; or

(*b*) whose nomination has been found valid on scrutiny under section 36 and who has not withdrawn his candidature under section 37, dies;

and in either case, a report of his death is received at any time before the publication of the list of contesting candidates under section 38 ; or

(*c*) dies as a contesting candidate and a report of his deth is received before the commencement of the poll.

the returning officer shall, upon being satisfied about the fact of the death of the candidate, by order, countermand the poll and report of the fact the Election Commission and also to the appropriate authority and all proceedings with reference to the election shall be commenced a new in all respects as if for a new election :

Provided that no order for countermanding a poll should be made in a case referred to in clause (*a*) except after the scrutiny of all the nominations including the nomination of the deceased candidate :

Provided further that no further nomination shall be necessary in the case of pereson who was a contesting candidate at the time of the countermanding of the poll :a

Provided also that no pereson who has given a notice of withdrawal of his candidature under sub-section (*1*) of section 37 before the countermanding of the poll shall be ineligible for being nominated as a candidate for the election after such countermanding.

Explanation.—For the purposes of this section, "recognised political party" means a political party recognised by the Election Commission under the Election Symbols (Reservation and Allotment) Order, 1968."

Repeal and Saving.

3. (*1*) The Rerpresentation of the People (Amendment) Ordinance, 1992, is hereby repealed. Ord. 1 of 1992.

(*2*) Notwithstanding such repeal, any thing done or any saction taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

Sd/—.
K. L. MOHANPURIA,
Secy. to the Government of India.

By order and in the name of the Governor of Gujarat,

R. H. GORI,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, 30th October, 1993.

No. RP/139/93/11/92/Res.—The following Act of Parliament is re-published for general information :

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 31st March, 1992/Chaitra 11, 1914 (Saka)

The following Act of Parliament received the assent of the President on the 31st March, 1992 and is hereby published for general information :—

THE PUBLIC LIABILITY INSURANCE (AMENDMENT) ACT, 1992

No. 11 OF 1992.

[*31st March, 1992.*]

An Act to amend the Public Liability Insurance Act, 1991.

Be it enacted by Parliament in the Forty-third Year of the Republic of India as follows :—

Short title and commencement.

1. (*1*) This Act may be called the Public Liability Insurance (Amendment) Act, 1992.

(*2*) It shall be deemed to have come into force on the 31st day of January, 1992.

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Amendment of section 2.

2. In section 2 of the Public Liability Insurance Act, 1991 (hereinafter referred to as the principal Act),— **6 of 1991.**

(*i*) for clause (*a*), the following clause shall be substituted, namely:—

'(*a*) "accident" means an accident involving a fortuitous or sudden or unintended occurrence while handling any hazardous substance resulting in continuous or intermittent or repeated exposure to death of, or injury to, any person or damage to any property but does not include an accident by reason only of war or radio-activity ;';

(*ii*) for clause (*g*), the following clause shall be substituted, namely:—

"(*g*) "owner" means a person who owns, or has control over handling, any hazardous substance at the time of accident and includes,—

(*i*) in the case of a firm, any of its partners ;

(*ii*) in the case of an association, any of its members ; and

(*iii*) in the case of a company, any of its directors, managers, secretaries or other officers who is directly in charge of, and is responsible to, the company for the conduct of the business of the company;';

(*iii*) after clause (*h*), the following clause shall be inserted, namely:—

'(*ha*) "Relief Fund" means the Environmental Relief Fund established under section 7A;'.

Amendment of section 4.

3. In section 4 of the principal Act, after sub-section (*2*), the following sub-sections shall be inserted, namely:—

'(*2A*) No insurance policy taken out or renewed by an owner shall be for an amount less than the amount of the paid-up capital of the undertaking handling any hazardous substance and owned or controlled by that owner, and more than the amount, not exceeding fifty crore rupees, as may be prescribed.

Explanation.—For the purposes of this sub-section "paid-up capital" means, in the case of an owner not being a company, the market value of all assets and stocks of the undertaking on the date of contract of insurance.

(*2B*) The liability of the insurer under one insurance policy shall not exceed the amount specified in the terms of the contract of insurance in that insurance policy.

(*2C*) Every owner shall also, together with the amount of premium, pay to the insurer, for being credited to the Relief Fund established under section 7A, such further amount, not exceeding the sum equivalent to the amount of premium, as may be prescribed.

(*2D*) The insurer shall remit to the authority specified in sub-section (*3*) of section 7A the amount received from the owner under sub-section (*2C*) for being credited to the Relief Fund in such manner and within such period as may be prescribed and where the insurer fails to so remit that amount, it shall be recoverable from the insurer as arrears of land revenue or of public demand.'.

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Amendment of section 7.

4. In section 7 of the principal Act,—

(*a*) for sub-section (*3*), the following sub-section shall be substituted, namely:—

"(*3*) When an award is made under this section,—

(*a*) the insurer, who is required to pay any amount in terms of such award and to the extent specified in sub-section (*2B*) of section 4, shall, within a period of thirty days of the date of announcement of the award, deposit that, amount in such manner as the Collector may direct;

(*b*) the Collector shall arrange to pay from the Relief Fund, in terms of such award and in accordance with the scheme made under section 7A, to the person or persons referred to in sub-section (*1*) such amount as may be specified in that scheme;

(*c*) the owner shall, within such period, deposit such amount in such manner as the Collector may direct.";

(*b*) after sub-section (*7*), the following sub-section shall be inserted, namely:—

"(*8*) Where an owner is likely to remove or dispose of his property with the object of evading payment by him of any amount of the award, the Collector may, in accordance with the provisions of rules 1 to 4 of Order, XXXIX of the First Schedule to the Code of Civil Procedure, 1908, grant a temporary injunction to restrain such act".

5 of 1908.

Insertion of new section 7A.

5. After section 7 of the principal Act, the following section shall be inserted, namely:—

Establishment of Environmental Relief Fund.

"*7A.* (*1*) The Central Government may, by notification, establish a fund to be known as the Environmental Relief Fund.

(*2*) The Relief Fund shall be utilised for paying, in accordance with the provisions of this Act and the scheme made under sub-section (*3*), relief under the award made by the Collector under section 7.

(*6*) The Central Government may, by notification make a scheme specifying the authority in which the Relief Fund shall vest, the manner in which the Relief Fund shall be administered the form and the manner in which money shall be drawn from the Relief Fund and for all other matters connected with or incidental to the administration of the Relief Fund and the payment of relief therefrom."

Amendment of section 14.

6. In section 14 of the principal Act, in sub-section (*1*), for the words, brackets and figures "sub-section (*1*) or sub-section (*2*)", the words, brackets, figures and letters "sub-section (*1*) or sub-section (*2*) or sub-section (*2A*) or sub-section (*2C*)" shall be substituted.

Amendment of section 23.

7. In section 23 of the principal Act,—

(*a*) in sub-section (*2*),—

(*i*) clause (*a*) shall be re-lettered as clause (*ac*);

(*ii*) before clause (*ac*), as so re-lettered, the following clauses shall be inserted, namely:—

"(*a*) the maximum amount for which an insurance policy may be taken out by an owner under sub-section (*2A*) of section 4;

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(*aa*) the amount required to be paid by every owner for being credited to the Relief Fund under sub-section (*2C*) of section 4;

(*ab*) the manner in which and the period within which the amount received from the owner is required to be remitted by the insurer under sub-section (*2D*) of section 4;";

(*b*) in sub-section (*3*), for the word "rule", wherever it occurs, the words "rule or scheme" shall be substituted.

Repeal and saving.

8. (*1*) The Public Liability Insurance (Amendment) Ordinance, 1992 is hereby repealed.

Ord. 6 of 1992.

(*2*) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

Sd/-

K. L. MOHANPURIA,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

R. H. GORI,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, 30th October, 1993.

No. RP/141/93/13/92/RCS.—The following Act of Parliament is re-published for general information :

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 3rd April, 1992/Chaitra 14, 1914 (Saka)

The following Act of Parliament received the assent of the President on the 3rd April, 1992, and is hereby published for general information:—

THE COPYRIGHT (AMENDMENT) ACT, 1992

No. 13 OF 1992

[*3rd April, 1992.*]

AN ACT

further to amend the Copyright Act, 1957.

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

INDEX

Short title and commencement.

1. (*1*) This Act may be called the Copyright (Amendment) Act, 1992.

(*2*) It shall be deemed to have come into force on the 28th day of December, 1991.

Amendment of Chapter V.

2. In Chapter V of the Copyright Act, 1957 (hereinafter referred to as the principal Act), for the words "fifty years", wherever they occur, the words "sixty years" shall be substituted. 14 of 1957.

Copyright not to subsist if term has expired.

3. For the removal of doubts, it is hereby declared that copyright shall not subsist by virtue of this Act in any work in which copyright did not subsist immediately before the commencement of this Act.

Repeal and saving.

4. (*1*) The Copyright (Amendment) Ordinance, 1991 is hereby repealed. Ord. 9 of 1991.

(*2*) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

Sd/-
K. L. MOHANPURIA,
Secy. to the Govt. of India.

By order and in the name of the Governor of Gujarat,

R. H. GORI,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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PART—VI

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LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, 30th October, 1993.

No. RP/142/93/14/192/RCS.—The following Act of Parliament is re-published for general information.

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 4th April, 1992/Chaitra 15, 1914 (Saka)

The following Act of Parliament received the assent of the President on the 4th April, 1992, and is hereby published for general information.—

THE INDIAN RED CROSS SOCIETY (AMENDMENT) ACT, 1992.

No. 14 of 1992

[*4th April, 1992.*]

An Act further to amend the Indian Red Cross Society, Act, 1920.

Be it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

INDEX

Short title and commencement,

1. (*1*) This Act may be called the Indian Red Cross Society (Amendment) Act, 1992.

(*2*) It shall be deemed to have come into force on the 23rd day of January, 1992.

Insertion of new sections 4A to 4E.

2. After section 4 of the Indian Red Cross Society Act, 1920 (hereinafter referred to as the principal Act), the following sections shall be inserted, namely:— 15 of 192

President of the Society.

"**4A.** The President of India shall be the President of the Society (hereinafter referred to as the President).

Composition of Manoging Body.

4B. (*1*) Notwithstanding anything contained in section 3, the Managing Body shall consist of the following members, namely;—

(*a*) a Chairman to be nominated by the President for such term as he may deem fit;

(*b*) six members to be nominated by the President for such term as he may deem fit;

(*c*) twelve members to be elected by the State Branch Committees for a term of two years in accordance with the rules made by the Managing Body under section 5:

Provided that not more than one member shall be elected by any State Branch Committee:

Provided further that no member, elected under this section, shall hold office continuously for more than two terms.

(*2*) The Managing Body existing immediately before the commencement of the Indian Red Cross Society (Amendment) Act, 1992 shall cease to exist and the Chairman and all the members of the said Body shall be deemed to have vacated their offices on such commencement and the Managing Body shall be reconstituted within a period of six months from such commencement in accordance with the provisions of sub-section (*1*) and until it is so reconstituted, the President may authorise any person or body of persons to exercise and discharge all the powers, functions and duties which may, under the provisions of this Act or the rules made thereunder, be exercised or discharged by or on behalf of the Managing Body.

Secretary-General and Treasurer of the Society.

4C. (*1*) The Managing Body shall, with the previous approval of the President, appoint a Secretary-General and a Treasurer of the Society.

(*2*) The term of office and the conditions of service of the Secretary-General and the Treasurer shall be such as the Managing Body may determine by rules made under section 5:

Provided that the term of office and conditions of service of the Secretary-General and the Treasurer may be varied in like manner by the Managing Body.

(*3*) Notwithstanding anything contained in any contract or agreement and notwithstanding any judgment, decree or order of any court, tribunal or authority or anything contained in any other provision of this Act or the rules made thereunder, the term of office and conditions of service of any person appointed as the Secretary-General of the Society at any time before the commencement of the Indian Red Cross Society (Amendment) Act, 1992 may be varied by the Managing Body with the previous approval of the President.

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Powers and functions of the Chairman and Vice-Chairman.

4D. (*1*) The powers and functions of the Chairman shall be—

(*a*) to preside over the meetings of the Managing Body and all other Committees set up by the Managing Body of which he is the Chairman.

(*b*) to re-appropriate, on the advice of the Treasurer of the Society, budgetary allocation from one major head of account to another major head of account;

(*c*) to authorise, on the advice of the Treasurer of the Society, expenditure on items not contemplated in the annual Budget of the Society, subject to the availability of funds;

(*d*) to institute, if necessary, disciplinary proceedings against officers of and above the rank of Deputy Secretary of the Society:

Provided that the final decision on the basis of the disciplinary proceedings so instituted shall be taken,—

(*i*) in case of the Secretary-General of the Society, with the previous approval of the President ;

(*ii*) in other cases, with the previous approval of the Managing Body.

(*3*) The powers and functions of the Vice-Chairman shall be,—

(*a*) to exercise the powers and perform the functions conferred on the Chairman under sub-section (*1*) or delegated to him under sub-section (*3*), in the absence of the Chairman on leave or on tour abroad or for any other similar reasons ;

(*b*) to act as *ex-officio* member in all the Committees or Sub-Committees appointed by the Managing Body.

(*3*) The Chairman and the Vice-Chairman shall, in addition to the powers exercisable by them under sub-sections (*1*) and (*2*), exercise such other financial and administrative powers as may be delegated to them by the Managing Body in accordance with rules made by it under section 5.

Powers of the President to supersede the Managing Body.

4E. (*1*) If, at any time the President is of opinion—

(*a*) that there has been gross failure in the management of the affairs of the Society by the Managing Body ; or

(*b*) that the Managing Body is acting in a manner which is prejudicial to carrying out the objectives of the Society,

the President may, by order in writing, supersedea the Managing Body for such period-not exceeding six months, as may be specified in the order :

Provided that before issuing an order under this sub-section, the President shall give a reasonable opportunity to the Managing Body to show cause why it should not be superseded and shall consider the explanations and objections, if any, of the Managing Body.

(*2*) Upon the issue of an order under sub-section (*1*) superseding the Managing Body,—

(*a*) all the members of the Managing Body shall, as from the date of supersession, vacate their offices as such ;

(*b*) all the powers, functions and duties, which may, under the provisions of this Act or there rules made the under, be exercised or discharged by or, on behalf of the

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Managing Body shall, until the Managing Body is reconstituted, be exercised and discharged by such person or body of persons as the President may appoint in this behalf.

(*3*) On the expiration of the period of supersession specified in the order issued under sub-section (*1*), the President may extend the period of supersession for a further period not exceeding six months as may be recommended by the person or body of persons appointed under clause (b) of sub-section (*2*) :

Provided that the President may, at any time before the expiration of the period of supersession, whether as originally specified under sub-section (*1*) or extended under this sub-section, take such steps as are necessary to reconstitute the Managing Body in accordance with the provisions of section 4B.".

Amendment of section 5.

3. Section 5 of the principal Act shall be re-numbered as sub-section (*1*) thereof and—

(*a*) in sub-section (*1*) as so re-numbered,—

(*i*) in the opening portion, for the words "subject to the condition of previous publication", the words "with the previous approval of the President" shall be substituted ;

(*ii*) for clause (d), the following clause shall be substituted,

namely:—

"(*d*) the procedure of election of members by State Branch Committees;";

(*iii*) for clauses (*ee*) and (*f*), the following clauses shall be substituted, namely:—

"(*f*) the powers exercisable by the Managing Body in supervising the activities of State Branch Committees ;

(*g*) delegation of financial and administrative powers to the Chairman and the Vice-Chairman ;

(*h*) disqualifications for membership of the Managing Body ;

(*i*) the term of office and conditions of service of the Secretary-General and the Treasurer and other officers of the Society ;

(*j*) the regulation of the procedure generally of the Society and Managing Body.";

(*b*) after sub-section (*1*) as so re-numbered, the following sub-section shall be inserted, namely:—

"(*2*) The Central Government shall cause every rule made under this section to be laid as soon as may be after the rule is made before each House of Parliament, while it is in session,. for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, that rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.".

Amendment of section 12.

4. In section 12 of the principal Act, the words "to regulate its own procedure and constitution" shall be omitted.

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Ord. 3 of 1992.

Repeal and savings.

5. (*1*) The Indian Red Cross Society (Amendment) Ordinance, 1992 is hereby repealed.

(*2*) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

Sd/-
K. L. MOHANPURIA,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

R. H. GORI,
Secretary to Government.

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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, 30th October, 1993.

No. RP/143/93/15/92/Res:—The following Act of Parliament is re-published for general information :

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 4th April, 1992/Chaitra 15, 1914 (Saka)

The following Act of Parliament received the assent of the President on the 4th April, 1992 and is hereby publised for general information :

THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992

(No. 15 of 1992) **(4th April, 1992)**

AN ACT

to provide for the establishement of a Board to protect the interests of investors in securities and to promote the development of, and to regulate, the securities market and for matters connected therewith or incidenttal there to:

Be it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (*1*) This Act may be called the Securities and Exchange Board of India Act, 1992.

(*2*) It extends to the whole of India.

(*3*) It shall be deemed to have come in to force on the 30th day of January, 1992;

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Definitions.

2. (*1*) In this Act, unless, the context otherwise requires,—

(*a*) "Board" means the Securties and Exchange Board of India established under section 3;

(*b*) "Chairman" means the Chairman of the Board;

(*c*) "existing Securities and Exchange Board" means the Securities and Exchange Board of India constituted under the Resolution of the Government of India in the Department of Economic Affairs No. 1(44)SE/86, dated the 12th day of April, 1988;

(d) "Fund" means the Fund constituted under Section 14,

(*e*) "member" means a member of the Board and includes the Chairman;

(*f*) "notification" means a notification publsihed in the Official Gazette;

(*g*) "prescribed" means prescribed by rules made under this Act;

(*h*) "regulations" means the regulations made by the Board under this Act;

(*i*) "securities" has the meaning assigned to it in section 2 of the Securities Contracts (Regulation) Act, 1956. 42 of 1956.

(*2*) Words and expressions used and not defined in this Act but defined in the Capital Issues (Control) Act, 1947, or the Securities Contracts (Regulation) Act, 1956, shall have the meanings respectively assigned to them in those Acts. 29 of 1947. 42 of 1956.

CHAPTER II

ESTABLISHMENT OF THE SECUITIRES AND EXCHANGE BOARD OF INDIA

Establishment and incorporation of Board.

3. (*1*) With effect from such date as the Central Government may, by notification, appoint, there shall be establihsed for the purposes of this Act, a Board by the name of the Securities and Exchange Board of India.

(*2*) The Board shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract and shall, by the said name, sue or be sued.

(*3*) The head office of the Board shall be at Bombay.

(*4*) The Board may establish offices at other places in India.

Management of the Board.

4. (*1*) The Board shall consist of the following members, namely:—

(*a*) a Chairman;

(*b*) two members from amongst the officials of the Ministries of the Central Government dealing with Finance and Law;

(*c*) one member from amongst the officials of the Reserve Bank of India constituted under section 3 of the Reserve Bank of India Act, 1934; 2 of 1934..

(*d*) two other members,

to be appointed by the Central Government.

(*2*) The general superintendence, direction and management of the affairs of the Board shall vest in a Board of members, which may exercise all powers and do all acts and things which may be exercised or done by the Board.

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(*3*) Save as otherwise determined by regulations, the Chairman shall also have powers of general superintendence and direction of the affairs of the Board and may also exercise all powers and do all acts and things which may be exercised or done by that Board.

(*4*) The Chairman and members referred to in clauses (*a*) and (*b*) of sub-section (*1*) shall be appointed by the Central Government and the members referred to in clauses (*b*) and (*c*) of that sub-section shall be nominated by the Central Government and the Reserve Bank of India respectively.

(*5*) The Chairman and the other members referred to in clauses (*a*) and (*d*) of sub-section (*1*) shall be persons of ability, integrity an standing who have shown capacity in dealing with problems relating to securites market or have special knowledge or experience of law, finance, economics, accountancy, administration or in any other discipline which, in the opinion of the Central Government, shall be useful to the Board.

Term of office and conditions of service of Chairman and members of the Board.

5. (*1*) The term of office and other conditions of service of the Chairman and the members referred to in clause (*d*) of sub-section (*1*) of section 4 shall be such as may be prescribed.

(*2*) Notwithstanding anything contained in sub-section (*1*), the Central Government shall have the right to terminate the services of the Chairman or a member appointed under clause (*d*) of sub-section (*1*) of section 4, at any time before the expiry of the period prescribed under sub-section (*1*), by giving him notice of not less than three months in writing or three months' salary and allowances in lieu thereof, and the Chairman or a member, as the case may be, shall also have the right to relinquish his office, at any time before the expiry of the period prescribed, under sub-section (*1*), by giving to the Central Government notice of not less than three months in writing.

Removal of member from office.

6. (*1*) The Central Government shall remove a member from office if he—

(*a*) is, or at any time has been, adjudicated as insolvent ;

(*b*) is of unsound mind and stands so declared by a competent court ;

(*c*) has been convicted of an offence which, in the opinion of the Central Government, involves a moral turpitude ;

(*d*) is appointed as a director of a Company ;

(*e*) has, in the opinion of the Central Government, so abused his position as to render his continuation in office detrimental to the public interest :

Provided that no member shall be removed under this clause unless he has been given a reasonable opportunity of being heard in the matter.

Meetings.

7. (*1*) The Board shall meet at such times and places, and shall observe such rules of procedure in regard to the transaction of business at its meetings (including quorum at such meetings) as may be provided by regulations.

(*2*) The Chairmn or, if for any reason, he is unable to attend a meeting of the Board, any other member chosen by the members present from amongst themselves at the meeting shall preside at the meeting.

(*3*) All questions which come up before any meeting of the Board shall be decided by a majority votes of the members present and voting, and, in the event of an equality of votes, the Chairman, or in his absence, the person presiding, shall have a second or casting vote.

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Vacancies, etc, not to invalidate proceedings of Board.

8. No act or proceeding of the Board shall be invalid merely by reason of—

(*a*) any vacancy in, or any defect in the constitution of;, the Board; or

(*b*) any defect in the appointment of a person acting as a member of the Board; or

(*c*) any irregularity in the procedure of the Board not affecting the merits of the case.

Officers and employees of the Board.

9. (*1*) The Board may appoint such other officers and employees as it considers necessary for the efficient discharge of its functions under this Act.

(*2*) The term and other conditions of service of officers and employees of the Board appointed under sub-section (*1*) shall be such as may be determined by regulations.

CHAPTER III

TRANSFER OF ASSETS, LIABILITIES, ETC., OF THE EXISTING SECURITIES AND EXCHANGE BOARD TO THE BOARD

Transfer of assets, liabilties, etc., of existing Securities and Exchange Board to the Board.

10.(*1*) On and from the date of establishment of the Board,—

(*a*) any reference to the existing Securities and Exchange Board in any law other than this Act or in any contract or other instrument shall be deemed as a reference to the Board.

(*b*) all properties and assets, movable and immovable, of, or belonging to, the existing Securities and Exchange Board, shall vest in the Board;

(*c*) all rights and liabilities of the existing Secuirities and Exchange Board shall be transferred to, and be the rights and liabilities of, the Board;

(*d*) without prejudice to the provisions of clause (*c*). all debts, obligations and liabilities incurred all contracts entered into and all matters and things engaged to be done by, with or for the existing Securities ad Exchange Board immediately before that date, for or in connection with the purpose of the said existing Board shall be deemed to have been incurred, entered into or engaged to be done by, with or, for, the Board;

(*e*) all sums of money due to the existing Securities and Exchange Board immediately before that date shall be deemed to be due to the Board;

(*f*) all suits and other legal proceedings instituted or which could have been instituted by or against the existing Securities and Exchange Board immediately before that date may be continued or may be instituted by or against the Board; **and**

(*g*) every employee holding any office under the existing Securities and Exchange Board immediately before that date shall hold his office in the Board by the same tenure and upon the same terms and conditions of service as respects, remuneration, leave, provident fund, retirement and other terminal benefits as he would have held such office if the Board had not been established and shall continue to do so as an employee of the Board or until the expiry of the period of six months from that date if such employee opts not to be the employee of the Board within such period.

(*2*) Notwithstanding anything contained in the Industrial Disputes Act, 1947 or in any other law for the time being in force, absorption of any employee by the Board in its regular service under this section shall not entitle such employee to any compensation under that Act or other law and no such claim shall be entertained **by any court, tribunal or other authority.**

CHAPTER IV

POWERS AND FUNCTIONS OF THE BOARD

Functions of Board.

11. (*1*) Subject to the provisions of this Act, it shall be the duty of the Board to protect the interests of investors in securities and to promote the development of, and to regulate the securities markets, by such measures as it thinks fit.

(*2*) Without prejudice to the generality of the foregoing provisions, the measures referred to therein may provide for—

(*a*) regulating the business in stock exchange and any other securities markets;

(*b*) registering and regulating the working of stock brokers, sub-brokers, share transfer agents, bankers to an issue, trustees of trust deeds, registrars to an issue merchant bankers, underwriters, portfolio managers, investment advisers and such other intermediaries who may be associated with securities markets in any manner :

(*c*) registering and regulating the working of collective investment schemes, including mutual funds;

(*d*) promoting and regulating self-regulatory organisations;

(*e*) prohibiting fraudulent and unfair trade practices relating to securities markets;

(*f*) promoting investors' education and training of intermediaries of securities markets;

(*g*) prohibiting insider trading in securities;

(*h*) regulating substantial acquisition of shares and take-over of companies;

(*i*) calling for information from, undertaking inspection, conducting inquiries and audits of the stock exchanges and intermediaries and self-regulatory organisations in the securities markets;

29 of 1947.
42 of 1956.

(*j*) performing such functions and exercising such powers under the provision of the Capital Issues (Control) Act, 1947 and the Securities Contracts (Regulation) Act, 1956, as may be delegated to it by the Central Government.

(*k*) levying fees or other charges for carrying out the purposes of this section;

(*l*) conducting research for the above purposes;

(*m*) performing such other functions as may be prescribed.

CHAPTER V

REGISTRATION CERTIFICATE

Registration of stock-brokers, sub-brokers, share transfer agents, etc.

12. (*1*) No stock-broker, sub-broker, share transfer agent, banker to an issue, trustee of trust deed, registrar to an issue, merchant banker, underwriter, portfolio manager, investment adviser and such other intermediary who may be associated with securities market shall buy, sell or deal in securities except under, and in accordance with the conditions of a certificate of registration obtained from the Board in accordance with the rules made under this Act,

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Provided that a person buying or selling securities or otherwise dealing with the securities market as a stock-broker, sub-broker, share transfer agent, banker to an issue, trustee of trust deed, registrar to an issue, merchant banker, underwriter portfolio manager, investment adviser and such other intermediary who may be associated with securities market immediately before the establishment of the Board for which no registration certificate was necessary prior to such establishment, may continue to do so for a period of three months from such establishment or, if he has made an application for such registration within the said period of three months till the disposal of such application.

(*2*) Every application for registration shall be in such manner and on payment of such fees as may be determined by regulations.

(*3*) The Board may, by order suspend or cancel a certificate of registration in such manner as may be determined by regulations:

Provided that no order under this sub-section shall be made unless the person concerned has been given a reasonable opportunity of being heard.

CHAPTER VI

FINANCE, ACCOUNTS AND AUDIT

Grants by the Central Govern-ment.

13 The Central Government may, after due appropriation made by Parliament by law in this behalf make to the Board Grants of such sums of money as that Government may think fit for being utilised for the purposes of this Act.

Fund.

14. (*1*) There shall be constituted a Fund to be called the Securities and Exchange Board of India General Fund and there shall be credited thereto—

(*a*) all grants, fees and charges received by the Board under this Act; and

(*b*) all sums received by the Board from such other sources as may be decided upon by the Central Government.

(*2*) The Fund shall be applied for meeting—

(*a*) the salaries, allowances and other remuneration of the members, officers and other employees of the Board;

(*b*) the expenses of the Board in the discharge of its functions under section 11,

(*c*) the expenses on objects and for purposes authorised by this Act.

Accounts and audit.

15. (*1*) The Board shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(*2*) The accounts of the Board shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Board to the Comptroller and Auditor-General of India.

(*3*) The Comptroller and Auditor-General of India and any other person appointed by him in connection with the audit of the accounts of the Board shall have the same rights and privileges and authrity in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Board.

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(4) The accounts of the Board as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

CHAPTER VII

MISCELLANEOUS

power of Central Government to issue directions.

16. (*1*) Without prejudice to the foregoing provisions of this Act, the Board shall, in exercise of its powers or the performance of its functions under this Act, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time:

Provided that the Board shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

(*2*) The decision of the Central Government whether a question is one of policy or not shall be final.

Power of Central Government to supersede the Board.

17. (*1*) If at any time the Central Government is of opinion—

(*a*) that on account of grave emergency, the Board is unable to discharge the functions and duties imposed on it by or under the provisions of this Act; or

(*b*) that the Board has persistently made default in complying with any direction issued by the Central Government under this Act or in the discharge of the functions and duties imposed on it by or under the provisions of this Act and as a result of such default the financial position of the Board or the administration of the Board has deteriorated; or

(*c*) that circumstances exist which render it necessary in the public interest so to do,

the Central Government may, by notification, supersede the Board for such period, not exceeding six months, as may be specified in the notification.

(*2*) Upon the publication of a notification under sub-section (*1*) superseding the Board,—

(*a*) all the members shall, as from the date of supersession, vacate their offices as such;

(*b*) all the powers, functions and duties which may, by or under the provisions of this Act, be exercise or discharged by or on behalf of the Board, shall until the Board is reconstituted under sub-section (*3*), be exercised and discharged by such person or persons as the Central Government may direct; and

(*c*) all property owned or controlled by the Board shall, until the Board is reconstituted under sub-section (*3*), vest in the Central Government.

(*3*) On the expiration of the period of supersession specified in the notification issued under sub-section (*1*), the Central Government may reconstitute the Board by a fresh appointment and in such case any person or persons who vacated their offices under clause (*a*) of sub-section (*2*), shall not be deemed disqualified for appointment:

Provided that the Central Government may, at any time, before the expiration of the period of supersession, take action under this sub-section.

(*4*) The Central Government shall cause a notification issued under sub-section (*1*) and a full report of any action taken under this section and the circumstaces leading to such action to be laid before each House of Parliament at the earliest.

Returns and reports.

18. (*1*) The Board shall furnish to the Central Government at such time and in such form and manner as may be prescribed or as the Central Government may direct, such returns and statements and such particulars in regard to any proposed or existing programme for the promotion and development of the secuirites market, as the Central Government may, from time to time, require.

(*2*) Without prejudice to the provisions of sub-section (*1*), the Board shall, within sixty days after the end of each financial year, submit to the Central Government a report in such form, as may be prescribed, giving a true and full account of its activities, policy and programmes during the previous financial year.

(*3*) A copy of the report received under sub-section (*2*) shall be laid, as soon as may be after it is received, before each House of Parliament.

Delegation.

19. The Board may, by general or special order in writing delegate to any member, officer of the Board or any other person subject to such conditions, if any, as may be specified in the order, such of its powers and functions under this Act. (except the powers under section 29) as it may deem necessary.

Appeals.

20. (*1*) Any person aggrieved by an order of the Board made under this Act, or the rules or regulations made thereunder may prefer an appeal to the Central Government within such time as may be prescribed.

(*2*) No appeal shall be admitted if it is preferred after the expiry of the period prescribed therefor:

Provided that an appeal may be admitted after the expiry of the period prescribed therefor if the appellant satisfies the Central Government that he had sufficient cause for not preferring the appeal within the prescribed period.

(*3*) Every appeal made under this section shall be made in such form and shall be accompanied by a copy of the order appealed against and by such fees as may be prescribed.

(*4*) The procedure for disposing of an appeal shall be such as may be prescribed:

Provided that before disposing of an appeal, the appellant shall be given a reasonable opportunity of being heard.

Savings.

21. Nothing in this Act shall exempt any person from any suit or other proceedings which might, apart from this Act, be brought against him.

Members, officers, and employees of the Board to be public servants.

22. All members, officers and other employees of the Board shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code. 45 of 186

Protection of action taken in good faith.

23. No suit, prosecution or other legal proceedings shall lie against the Central Government or any officer of the Central Government or any member, officer or other employee of the Board for anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder.

Penalty.

24. Whoever contravenes or attempts to contravene or abets the contravention of the provisions of this Act or of any rules or regulations made thereunder, shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

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27 of 1957.
43 of 1961.

Exemption from tax on wealth and income.

25. Notwithstanding anything contained in the Wealth-tax Act, 1957, the Income-tax Act, 1961 or any other enactment for the time being in force relating to tax on wealth, income, profits or gains—

(a) the Board;

(b) the existing Securities and Exchange Board from the date of its constitution to the date of establishment of the Board,

shall not be liable to pay wealth-tax, income-tax or any other tax in respect of their wealth, income, profits or gains derived.

Cognizance of offences by courts.

26. (1) No court shall take cognizance of any offence punishable under this Act or any rules or regulations made thereunder, save on a complaint made by the Board with the previous sanction of the Central Government.

(2) No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Act.

Offences by companies.

27. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

Power to exempt.

28. If the Central Government is of the opinion that it necessary or expedient so to do in public interest, it may, by order published in the Official Gazette, exempt any person or class of persons buying or selling securities or otherwise dealing with the securities market from the operation of the provisions of sub-section (1) of section 12.

Power to make rules.

29. (1) The Central Government may, by notification, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the term of office and other conditions of service of the Chairman and the members under sub-section (1) of section 5;

(b) the additional functions that may be performed by the Board under section 11;

(c) the conditions subject to which registration certificate is to be issued under sub-section (1) of section 12;

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(*d*) the manner in which the accounts of the Board shall be maintained under section 15 ;

(*e*) the form and the manner in which returns and report to be made to the Central Government under section 18 ;

(*f*) any other matter which is to be, or may be , prescribed, or in respect of which provision is to be, or may be , made by rules.

Power to make regulations.

30 (*1*) The Board may, with the previous approval of the Central Government by notification, make regulations consistent with this Act and the rules made thereunder to carry out the purposes of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(*a*) the times and places of meetings of the Board and the procedure to be followed at such meetings under sub-section (*1*) of section 7 including quorum necessary for the transaction of business ;

(*b*) the term and other conditions of service of officers and employees of the Board under sub-section (*2*) of section 9 ;

(*c*) the amount of fee to be paid for registration certificte and manner of suspension or cancellation of registration certificate under sub-section (*2*) and (*3*) of section 12.

Rules and regulations to be laid before Parliament.

31. Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Application of other laws not barred.

32. The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force.

Amendment of certain enactments.

33. The enactments specified in Parts I and II of the Schedule to this Act shall be amended in the manner specified therein and such amendments shall take effect on the date of establishment of the Board.

Power to remove difficulties.

34. (*1*) If any difficulty arises in giving effect to the provisons of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not incinsistent with the provisions of this Act as may appear to be necessary for removing the difficulty:

Provided that no order shall be made under this section after the expiry of five years from the commencement of this Act.

(*2*) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Repeal and saving.

35. (*1*) The Securities and Exchange Board of India Ordinance, 1992, is hereby repealed.

Ord. 5 of 1992.

(*2*) Notwithstanding such repeal, anything done or any action taken under the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of this Act.

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THE SCHEDULE

(*See* section 33)

AMENDMENT OF CERTAIN ENACTMENTS

PART I

AMENDMENTS TO THE CAPITAL ISSUES (CONTROL) ACT, 1947.

(29 OF 1947)

In section 10, *for* "to that Government" *substitute* "to that Government or the Securities and Exchange Board of India".

PART II

AMENDMENTS TO THE SECURITIES CONTRACTS (REGULATION) ACT, 1956

(42 OF 1956)

1. Section 2, in clause (*h*), for sub-clause (*ii*), *substitute* the following:—

"(*ii*) Government securities ;

(*iia*) such other instruments as may be declared by the Central Government to be securities ; and ".

2. Section 6,—

(*i*) in sub-section (*1*), for "Central Government", *substitute* "Securities and Exchange Board of India";

(*ii*) in sub-section (*2*), *for* " by the Central Government", *substitute* " by the Securities and Exchange Board of India";

(*iii*) in sub-section (*3*), *for* "Central Government"wherever it occurs, *substitute* "Securities and Exchange Board of India";

3. Section 9, *for* "Central Government" wherever it occcurs, *substitute* "Securities and Exchange Board of India";

4. Section 10, *for* "Central Government" wherever it occurs, *substitute* "Securties and Exchange Board of India" ;

5. Section 17, in sub-section (*1*), *for* "licence granted by the Central Government", *substitute* "licence granted by the Securities and Exchange Board of India";

6. Section 21, *for* "Central Government", *substitute* "Securities and Exchange Board of India";

7. Section 22A, in sub-section (*3*) *for* clause (*b*), *substitute* the following :—

"(*b*) that the transfer of the securities is in contravention of any law or rules made there under or any administrative instructions or conditions of listing agreement laid down in pursuance of such laws or rules;"

8. In sub-section (2) of section 23, *for* "Central Government under section 21 or section 22", *substitute* "Securities and Exchange Board of India under section 21 of the Central Government under section 22";

Power to delegate.

9. *After* section 29, *insert* the following:—

"29A. The Central Government may, by order published in the Official Gazette, direct that the powers exercisable by it under any provision of this Act shall, in relation to such matters and subject to such conditions, if any as may be specified in the order, be exercisable also by the Securities and Exchange Board of India."

Sd/-.
K. L. MOHANPURIA,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

R. H. GORI,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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EXTRAORDINARY

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Separate paging is given to this Part in order that it may be filed as a separate Compilation.

PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar 30th October, 1993.

No. RP/144/93/16/92/RCS.—The following Act of Parliament is re-published for general information ;

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 4th April, 1992/Chaitra 15, 1914 (Saka)

The following Act of Parliament received the assent of the President on the 4th April, 1992, and is hereby published for general information :—

THE CESS AND OTHER TAXES ON MINERALS (VALIDATION) ACT, 1992.

No. 16 of 1992.] *[4th April, 1992.*

An Act to validate the imposition and collection of cesses and certain other taxes on minerals under certain State laws.

Be it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

1. (*1*) This Act may be called the Cess and Other Taxes on Minerals (Validation) Act, 1992. Short title, extent and Commencement.

(*2*) It extends to the whole of India.

(*3*) It shall be deemed to have come into force on the 15th day of February, 1992.

Validation of certain State laws and actions taken and things done thereunder.

2. (*1*) The laws specified in the Schedule to this Act shall be, and shall be deemed always to have been as valid as if the provisions contained therein relating to cesses or other taxes on minerals and had been enacted by Parliament and such provisions shall be deemed to have remained in force up to the 4th day of April, 1991.

(*2*) Notwithstanding any judgement, decree or order of any court, all actions taken, things done, rules made, notifications, issued or purported to have been taken, done, made or issued and cesses or othere taxes on minearls realised under any such laws shall be deemed to have been validly taken, done, made, issued or realised, as the case may be, as if this section had been in force at all material times when such actions were taken, things were done, rules were made, notifications were issued or cesses or other taxes were reliased, and no suit or oehtr proceedings shall be maintainted or continued in any court for the refund of the cesses or other taxes realised under any such laws.

(*3*) For the removal of doubts, it is herey declared that nothing in sub-section (*2*) shall be construed as preventing any person from claiminig refund of any cess or tax paid by him in excess of the amount due from him under any such laws.

Repeal and savings.

3. (*1*) The Cess and Other Taxes on Minerals (Validation) Ordinance, 1992 is hereby repealed.

Ord. 7 of 1992.

(*2*) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been doen or taken under the corresponding provisions of this Act.

THE SCHEDULE

(*See* section 2)

1. The Andhra Pradesh (Mineral Rights) Tax Act, 1975 (A.P. Act 14 of 1975).
2. The Andhra Pradesh (Andhra area) District Boards Act, 1920.
3. The Andhra Praesh (Telengana Area) District Boards Act, 1955.
4. The Cess Act, 1880 (Bengal Act 9 of 1880) as applicable in the State of Bihar.
5. The Karnaktaka Zilla Parishads, Taluka Panchayat Samitis, Mandal Panchayat and Nyaya Panchayats Act, 1983 (Karnataka Act 20 of 1985).
6. The Karnataka (Mineral Rights) Tax Act, 1984 (Karnataka Act 32 of 1984).
7. The Madhya Prdesh Karadhan Adhiniyam, 1982 (M.P. Act 15 of 1982).
8. The Madhya Pradesh Upkar Adhiniyam, 1981 (M.P.Act I. of 1982).
9. The Maharashtra Zilla Parishads and Panchayat Samitis (Amendment) and Validation) Act, 1981 (Maharashtra Act 46 of 1981).
10. The Orissa Cess Act, 1962 (Orissa Act II of 1962).
11. The Tamil Nadu Panchayat Act, 1958 (Tamil Nadu Act XXXV of 1958).

Sd/—.
K. L. MOHANPURIA,
Secy. to the Government of India.

By order and in the name of the Governor of Gujarat,

R. H. GORI,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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No. RP/146/93/18/92/RCS.–The following Act of Parliament is re-published for general information;

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 14th May, 1992/Vaisakha 24, 1914(Saka)

The following Act of Parliament received the assent of the President on the 14th May, 1992, and is hereby published for general information.

THE FINANCE ACT, 1992

[No. 18 of 1992] *AN ACT* **[14th May, 1992]**

to give effect to the financial proposals of the Central Government for the financial year 1992-93.

Be it enacted by Parliament in the Forty-third Year of the Republic of India as follows–

CHAPTER I

Preliminary

1. (*1*) This Act may be called the Finance Act, 1992.

(*2*) Save as otherwise provided in this Act, sections 2 to 108, 116 and 117 [except sections 61, 109 sub-section (*1*) of section 116 and sections 112 and 113] shall be deemed to have come into force on the 1st day of April, 1992.

Short title and commencement.

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CHAPTER II

RATES OF INCOME-TAX

Income-tax.

2. (1) Subject to the provisions of sub-section (2) and (3), for the assessment year commencing on the 1st day of April, 1992, income-tax shall be charged as the rates specified in Part I of the First Schedule and such tax as reduced by the rebate of income-tax calculated under section 88 of the Income-tax Act, 1961 (hereinafter referred to as the Income-tax Act) shall be increased,- 43 of 1961.

(a) in the cases to which Paragraphs A, B, C and D of that Part apply, by a surcharge for purpose of the Union; and

(b) in the cases to which Paragraph E of that Part applies, by a surcharge,

calculated in each case in the manner provided therein.

(2) In the cases to which Sub-Paragraph I or Sub-Paragraph II of Paragraph A of Part I of the First Schedule applies, where the assessee has, in the previous year, any net agricultural income exceeding six hundred rupees, in addition to total income, and the total income exceeds,—

(i) in a case to which the said Sub-Paragraph I applies, twenty-two thousand rupees, and

(ii) in a case to which the said Sub-Paragraph II applies, twelve thousand rupees,

then,—

(a) the net agricultural income shall be taken into account, in the manner provided in clause (b) [that is to say as if the net agricultural income were comprised in the total income after,—

(i) in a case to which the said Sub-Paragraph I applies, the first twenty-two thousand rupees, and

(ii) in a case to which the said Sub-Paragraph II applies, the first twelve thousand rupees,

of the total income but without being liable to tax], only for the purpose of charging income-tax in respect of the total income; and

(b) the income-tax chargeable shall be calculated as follows:—

(i) the total income and the net agricultural income shall be aggregated and the amount of income-tax shall be determined in respect of the aggregate income at the rates specified in Sub-Paragraph I or, as the case may be, Sub-Paragraph II of the said Paragraph A, as if such aggregate income were the total income;

(ii) the net agricultural income shall be increased,—

(A) in a case to which the said Sub-Paragraph I applies, by a sum of twenty-two thousand rupees; and

(B) in a case to which the said Sub-Paragraph II applies by a sum of twelve thousand rupees,

and the amount of income-tax shall be determined in respect of the net agricultural income as so increased at the rates specified in Sub-Paragraph I or, as the case may be, Sub-Paragraph II of the said Paragraph A, as if the net agricultural income as so increased were the total income;

(*iii*) the amount of income-tax determined in accordance with sub-clause (*i*) shall be reduced by the amount of income-tax determined in accordance with sub-clause (*ii*) and the sum so arrived at shall be the income-tax in respect of the total income;

Provided that the amount of income-tax so arrived at, as reduced by the rebate of income-tax calculated under Chapter VIII-A of the Income-tax Act, shall, in the case of every person having a total income exceeding twenty-five thousand rupees be increased by a surcharge for purposes of the Union calculated at the rate of twelve per-cent of such income-tax and the sum so arrived at shall be the income-tax in respect of the total income.

(3) In cases to which the provisions of Chapter XII or Chapter XII-A or sub-section (*1A*) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act apply, the tax chargeable shall be determined as provided in that Chapter or that section, and with reference to the ratesimposed by sub-section (*1*) or the rates as specified in that Chapter or section, as the case my be :

Provided that in resect of any income chargeable to tax under section 115B or section 115BB of the Income-tax Act,-

(*a*) the income-tax computed under section 115B shall be increased by a surcharge calculated at the rate of fifteen per cent of such income-tax; and

(*b*) the income-tax computed under section 115BB shall be increased.-

(*i*) in the case of a person other than a company, being a resident in India by a surcharge for purposes of the Union calculated at the rate of twelve per cent of such income-tax; and

(*ii*) in the case of a domestic company, by a surcharge calculated at the rate of fifteen per cent of such income-tax;

(4) In cases in which tax has to be deducted under sections 193, 194, 194A, 194B, 194BB, 194D and 195 of the Income-tax Act at the rates in force, the deduction shall be made at the rates specified in Part II of the First schedule and shall be increased,—

(*a*) in the cases to which the provisions of sub-item (*a*) of item 1 of that Part apply, by a surcharge for purposes of the Union; and

(*b*) in the cases to which the provisions of sub-item (*a*) of item 2 of that Part applp, by a surcharge,

calculated in each case in the manner provided therein.

(5) In cases in which tax has to be deducted under sections 194C. 194EE, 194F, 194G and 194H of the Income tax Act, the deduction shall be made at the rates specified in those sections and shall be increased by a surcharge for purposes of the Union calculated at the rate of twelve per cent, of such deduction;

Provided that in the cases of an assessee, being a domestic company, the provisions of this sub-section shall have effect, as if for the words "twelve per cent", the words "fifteen per cent," had been substituted.

(6) In cases in which tax has to be collected under section 206C of the Income-tax Act, the collection shall be made at the rate specified in that section and shall be increased by a surcharge for purposes of the Union calculated at the rate of tweve per cent of such collection;

Provided that in the case of a buyer, being a domestic company, the provisions of this sub-section shall have effect, as if for the words "twelve per cent,", the words "fifteen per cent." had been substituted.

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(7) Subject to the provisions of sub-section (8), in cases in which income-tax has to be calculated under the first proviso to sub-section (5) of section 132 of the Income-tax Act of charged under sub-section (4) of section 172 or sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 of the said Act or deducted under section 192 of the said Act from income chargeable under the head "salaries" or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed at the rate or rates in force, such income-tax or, as the case may be, "advance tax" shall be so calculated charged, deducted or computed at the rate or rates specified in Part III of the First schedule and such tax as reduced by the rebate of income-tax calculated under Chapter VIII-A of the said Act shall be increased,—

(a) in the cases to which Paragraphs A, B, C and D of that Part apply, by a surcharge for purposes of the Union; and

(b) in the cases to which Paragraph E of that Part applies, by a surcharge,

calculated in each case in the manner provided therein;

Provided that in cases to which the provisions of Chapter XII or Chapter XII-A or sub-section (1A) of section 161 or section 164 or section 164-A or section 167B of the Income-tax Act apply, "advance tax" shall be computed with reference to the rates imposed by this sub-section or the rates as specified in that Chapter or section, as the case may be;

Provided further that the amount of income-tax computed in accordance with the provisions of section 112 shall be increased by a surcharges for purposes of the Union or surcharges as provided in Paragraph A,B,C,D or E, as the case may be, of Part III of the First Schedule:

Provided also that in respect of any income chargeable to under section 115B of the Income-tax Act, the "advance tax" computed under the first proviso shall be increased by a surcharge for purposes of the Union calculated at the rate of fifteen per cent of such "advance tax".

(8) In the cases to which Sub-Paragraph I or Sub-Paragraph II of Paragraph A of Part III of the First Schedule applies, where the assessee has, in the previous year or, if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect of the income of a period other than the previous year, in such other period, any net agricultural income exceeding six hundred rupees, in addition to total income and the total income exceeds,—

(i) in a case to which the said Sub-Paragraph I applies, twenty-eight thousand rupees, and

(ii) in a case to which the said Sub-Paragraph II applies, eighteen thousand rupees,

then, in calculating income-tax under the first proviso to sub section (5) of section 132 of the Income-tax Act or in charging income-tax under sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 of the said Act or in computing the "advance tax" payable under Chapter XVII-C of the said Act, at the rate or rates in force,—

(a) the net agricultural income shall be taken into account, in the manner provided in clause (b) [that is to say, as if the net agricultural income were comprised in the total income after,—

(i) in a case to which the said Sub-Paragraph I applies, the first twenty-eight thousand rupees, and

(ii) in a case to which the said Sub-Paragraph II applies, the first eighteen thousand rupees, of the total income but without being liable to tax], only for the purpose of calculating, charging or computing such income-tax or, as the case may be, "advance tax" in respect of the total income; and

(*b*) such income-tax or, as the case may be, "advance tax" shall be so calculated, charged or computed as follows:—

(*i*) the total income and the net aaricultural income shall be aggregated and the amount of income-tax or "advance tax" shall be determined in respect of the aggregate income at the rates specified in sub-Paragraph I or, as the case may be, sub-Para-graph II of the said Paragraph A, as if such aggregate income were the total income;

(*ii*) the net agricultural income shall be increased,—

(*A*) in a case to which the said sub-Paragraph I applies, by a sum of twenty-eight thousand rupees; and

(*B*) in a case to which the said sub-Paragraph II applies by a sum of eighteen thousand rupees,

and the amount of income-tax or "advance tax" shall be determined in respect of the agricultural income as so increased at the rates specified in the said sub-Paragraph I or, as the case may be, the said sub-Paragraph II as if the net agricultural income as so increased were the total income;

(*iii*) the amount of income-tax or "advance tax" determined in accordance with sub-clause (*i*) shall be reduced by the amount of income tax or, as the case may be, "advance tax" determined in accordance with sub-clause (*ii*) and the sum so arrived at shall be the income-tax or, as the case may be, "advance tax" in respect of the total income;

Provided that the amount of income-tax or "advance tax" so arrived at, as reduced by the rebate of income tax calculated under Chapter VIII-A of the said Act, shall, in the case of every person having a total income exceeding one hundred thousand rupees, be increased by a surcharge for purposes of the Union calculated at the rate of twelve per cent. of such income-tax or, as the case may be, "advance tax" and the sum so arrived at shall be the income-tax or, as the case may be "advance tax" in respect of the total income.

(9) For the purposes of this section and the First schedule,—

(*a*) "company in which the public are substantially interested" means a company within the meaning of clause (18) of section 2 of the Income-tax Act, and includes a subsidiary of such company if the whole of the share capital of such subsidiary company has been held by the parent company or by its nominees throughout the pre vious year;

(*b*) "domestic company" means Indian company, or and other company which, in-respect of its income liable to income-tax under the Income-tax Act for the assessment year commencing on the 1st day of April, 1992, has made the prescribed arrangements for the declaration and payment within India of the dividends (including dividends on preference shares) payable out of such income in accordance with the provisions of section 194 of the Act;

(*c*) "Insurance commission" means any remuneration or reward, whether by way of commission or otherwise, for soliciting or procuring insurance business (including business relating to the continuance, renewal of revival of policies of insurance);

(*d*) "net agricultural income" in relation to a person, means the total amount of agricultural income, from whatever source derived, of that person computed in accordance with the rules contained in Part IV of the First Schedule;

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(*e*) "tax-free security" means any security of the Central Government issued or declared to be income-tax free, or any security of a state Government issued income-tax free, the income-tax whereon is payable by the state Government;

(*f*) all other words and expressions used in this setion or in the First schedule but not defined in this sub-section and defined in the Income-tax Act shall have the meanings respectively assigned to them in that Act.

CHAPTER III

DIRECT TAXES

Income-tax

Amendment of section 2.

3. In section 2 of the Income-tax Act,—

(*a*) in clause (*18*), after sub-clause (*ac*) the following sub-clause shall be inserted with effect from the 1st day of April, 1993, namely:—

"(*ad*) if it is a company, wherein shares (not being shares entitled to a fixed rate of dividend whether with or without a further right to participate in profits) carrying not less than fiftypercent, of the voting power have been allotted unconditionally to, or acquired unconditionally by, and were throughout the relevant previous year beneficially held by, one or more co-operative societies;";

(*b*) in clause (*24*), after sub-clause (*vd*), the following sub-clause shall be inserted with effect from the 1st day of April, 1993, namely:—

"(*ve*) any sum chareegeable to income-tax under clause (*v*) of section 28;";

(*c*) in clause (*37A*), for sub-clause (*iii*) the following sub-clause shall be substituted with effect from the 1st day of June, 1992, namely:—

"(*iiii*) for the purposes of deduction of tax under section 195, the rate or rates of income-tax specified in this behalf in the Finance Act of the relevant year or the rate or rates of income-tax specified in an agreement entered into by the Central Government under section 90, whichever is applicable by virtue of the provisions of section 90;";

(*d*) clause (*39*) shall be omitted with effect from the 1st day of April, 1993;

(*e*) clause (*48*) shall be omitted with effect from the 1st day of April, 1993.

Amendment of section 10.

4. In section 10 of the Income-tax Act,—

(*a*) after clause (*2*), the following clause shall be inserted with effect from the 1st day of April, 1993, namely:—

"(*2A*) in the case of a person being a partner of a firm which is separately assessed as such, his share in the total income of the firm.

Explanation.—For the purposes of this clause, the share of a partner in the total income of a firm separately assessed as such shall, notwithstanding anything contained in any other law, be an amount which bears to the total income of the firm the same proportion as the amount of his share in the profits of the firm in accordnace with the partnership deed bears to such profits;";

(*b*) in clause (*3*), in the proviso,—

(*i*) for the words "Provided that", the following shall be substituted, namely:—

Provided that where such receipts relate to winnings from races including horse races, the provisions of this clause shall have effect as if for the words "five thousand rupees", the words "two thousand five hundred rupees" had been substituted:

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Provided further that';

(*ii*) in clause (*iii*), the word "or", occurring at the end, shall be omitted;

(*iii*) clause (*iv*) shall be omitted;

(*c*) in clause (*6*), in sub-clause (*viia*), with effect from the 1st day of June, 1992, —

(*A*) for the portion beginning with the words "the following conditions are fulfilled, namely, that—" and ending with the words "six month of such commencement", the following shall be substituted, namely :—

"the individual was not resident in India in any of the four financial years immediately preceding the financial year in which he arrived in India;";

(*B*) the first proviso shall be omitted;

(*C*) in the second proviso ,—

(*i*) the word "further" shall be omitted;

(*ii*) for the words, brackets and figure "condition specified in item (1) of", the words "condition relating to non-residence in India as specified in" shall be substituted;

(*d*) in clause (*6A*), for the words "and approved by the Central Government, the tax on such income is payable, under the terms of such agreement, by Government or the Indian concern to the Central Government, the tax so paid", the following shall be substituted with effect from the 1st day of June, 1992, namely: —

"and,—

(*a*) where the agreement relates to a matter included in the industrial policy, for the time being in force, of the Government of India, such agreement is in ,n accordance with that policy ; and

(*b*) in any other case, the agreement is approved by the Central Government;

the tax on such income is payable, under the terms of the agreement, by Government or the Indian concern to the Central Government, the tax so paid";

(*e*) after clause (*10B*) the following clause shall be inserted, namely:—

21 of 1985. "(*10BB*) any payments made under the Bhopal Gas Leak Disaster (Processing of Claims) Act, 1985 and any scheme framed there under except payment made to any assessee in connection with the Bhopal gas leak disaster to the extent such assessee has been allowed a deduction under this Act on account of any loss or damage caused to him by such disaster;";

(*f*) for clause (*10C*), the following clause shall be substituted, with effect from the 1st day of April, 1993, namely:—

"(*10C*) any amount received by an employee of a public sector company or of any other company at the time of his voluntary retirement in accordance with any scheme or schemes of voluntary retirement:

Provided that the schemes of the said companies governing the payment of such amount are framed in accordance with such guidelines as may be prescribed for the public sector companies or for other companies and such guidelines may, *inter alia*, include criteria of economic viability and such sche-

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mes in relation to companies) other than public sector companies) are approved by the Chief Commissioner or, as the case may be, Director General in this behalf;";

(*g*) in clause (15), in sub-clause (*iv*), in item (*d*), after the words and figures "National Housing Bank Act, 1987,", the words and figures 'or the Small Industries Development Bank of India established under section 3 of the Small Industries Development Bank of India Act, 1989," shall be inserted; **53 of 1987.** **39 of 1989.**

(*h*) in clause (*21*), for clause (*b*) of the first proviso, the following clause shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1990, namely:—

"(*b*) does not invest or deposit its funds, other than —

(*i*) any assets held by the scientific research association where such assets form part of the corpus of the fund of the association as on the 1st day of June, 1973;

(*ii*) any assets (being debentures issued by, or on behalf of, any company or corporation), acquired by the scientific research association before the 1st day of March, 1983;

(*iii*) any accretion to the shares, forming part of the corpus of the fund mentioned in sub-clause (*i*), by way of bonus shares allotted to the scientific research association;

(*iv*) voluntary contributions received and maintained in the form of jewellery, furniture or any other article as the Board may, by notification in the Official Gazette, specify, ;

for any period during the previous year otherwise than in any one or more of the forms or modes specified in sub-section (*5*) of section 11.";

(*i*) in clause (23),—

(*1*) for clause (*b*) of the third proviso, the following clause shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1990, namely:—

"(*b*) does not invest or deposit its funds, other than—

(*i*) any assets held by the association or institution where such assets form part of the corpus of the fund of the association or institution as on the 1st day of June, 1973;

(*ii*) any assets (being debentures issued by, or on behalf of, any company or corporation), acquired by the association or institution before the 1st day of March, 1983;

(*iii*) any accretion to the shares, forming part of the corpus of the fund mentioned in sub-clause (*i*), by way of bonus shares allotted to the association or institution;

(*iv*) voluntary contributions received and maintained in the form of jewellery, furniture or any other article as the Board may, by notification in the *Official Gazette*, specify ,

for any period during the previous year otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11; and;

(*2*) in the fourth proviso, for the figures "1992", the figures "1993" shall be substituted ;

(*j*) in clause (*23C*),—

(*1*) for clause (*b*) of the third proviso, the following clause shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1990, namely:—

"(*b*) doesnot invest or deposit itsfunds, other than—

(*i*) any assets held by the fund, trust or institution where such assets form part of the corpus of the fund, trust or institution as on the 1st day of June, 1973;

(*ii*) any assets (being debentures issued by, or on behalf of, any company or corporation), acquired by the fund, trust or institution before the 1st day of March, 1983;

(*iii*) any accretion to the shares, forming part of the corpus mentioned in sub-clause (*i*), by way of bonus shares allotted to the fund, trust or institution ;

(*iv*) voluntary contribution received and maintained in the form of jewellery furniture or any other article as the Board may, by notification in the Official Gazette, specify ;

for any period during the previous year otherwise than in any one or more of the forms or modes secified in sub-section (*5*) of section 11;";

(*2*) in the fourth proviso, for the figures "1992", the figures "1993" shall be substituted ;

(*k*) in clause (23*D*), with effect from the 1st day of April, 1993,—

(*i*) after the words "public financial institution", the words "or authorised by the Securities and Exchange Board of India or the Reserve Bank of India" shall be inserted ;

(*ii*) in the *Explanation*, after clause (*b*), the following clause shall be inserted, namely:—

'(*c*) the expression "Securities and Exchange Board of India" shall have the meaning assigned to it in clause (*a*) of sub-section (*1*) of section 2 of the Securities and Exchange Board of India Act, 1992;"; 15 of 1992.

(*l*) after clause (26*B*), the following clause shall be inserted and shall be deemed to have inserted been with effect from the 1st day of April, 1989, namely

"27 any income of a co-operative society formed for promoting the interests of the members of either the Scheduled Castes or Scheduled Tribes or both referred to in clause (26*B*):

Provided that the membership of the co-operative society consists of only other co-operative societies formed for similar purposes and the finances of the society are provided by the Government and such other societies;";

(*m*) after clause (*31*), the following clause shall be inserted with effect from the 1st day of April, 1993, namely:—

"(*32*) in the case of an assessee referred to in sub-section (*1A*) of section 64, any income includible in his total incomes under that sub-section, to the extent such income does not exceed one thousand five hundred rupees in respect of each minor child whose income is so includible;".

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Amendment of section 13.

5. In section 13 of the Income-tax Act, in sub-section (1), in clause (*d*), in the proviso,—

(*i*) in clause (*i*), the words "and such assets were not purchased by the trust or institution or acquired by it by conversion, of, or in exchange for, any otrer asset" shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 1983;

(*ii*) after clause (*i*), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1983, namely:—

"(*ia*) any accretion to the shares, forming part of the corpus mentioned in clause (*i*), by way of bonus shares allotted to the trust or institution;";

(*iii*) in clause (*iia*), for the figures "1992", the figures "1993" shall be substituted

Amendment of section 15.

6. In section 15 of the Income-tax Act, the *Explanation* shall be renumbered as *Explanation* 1, and after *Explanation* 1 as so renumbered, the following *Explanation* shall be inserted, with effect from the 1st day of April, 1993, namely;—

'*Explanation* 2.—Any salary, bonus, commission or remuneration, by whatever name called, due to, or received by, a partner of a firm from the firm shal not be regarded as "salary" for the purposes of this section.'

Amendment of section 16.

7. In section 16 of the Income-tax Act, in clause (*i*), before the *Explanation*, the following proviso shall be inserted with effect from the 1st day of April, 1993, namely,—

'Provided that in the case of an assessee, being a woman, whose total income before making any deduction under this clause does not exceed seventy-five thousand rupees, the provisions of this clause shall have effect as if for the words "twelve thousand rupees", the words "fifteen thousand rupees" had been substituted';'

Amendment of section 17.

8. In section 17 of the Income-tax Act, in clause (*2*), with effect from the 1st day of April, 1993,—

(*1*) in the proviso,—

(*a*) for clause (*ii*) the following clause shall be substituted, namely:—

"(*ii*) any sum paid by the employer—

(*a*) in respect of any expenditure actually incurred by the employees on his medical treatment or treatment of any member of his family in any hospital maintained by the Government or any local authority or any other hospital approved by the Government for the purposes of medical treatment of its employees;

(*b*) directly to a hospital approved, by the Chief Commissioner having regard to the prescribed guidelines for the purposes of medical treatment of the prescribed diseases or ailments, on account of such treatment of the employee or any member of his family;";

(*b*) in clause (*vi*), for the words "one lakh rupees", the words "two lakh rupees" shall be substituted;

(*2*) in the *Explanation*, in clause (*i*), after the words "or clinic", the words "or a nursing home" shall be inserted.

Amendment of section 23.

9. In section 23 of the Income-tax Act, in sub-section (*1*), in clause (*d*) of the second proviso, aftr the figures letters and words "31st day of March, 1982", the words, figures and letters "but before the 1st day of April, 1992" shall be inserted with effect from the 1st day of April, 1993.

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Amendment of section 24.

10. In section 24 of the Income-tax Act, in sub-section (1), with effect from the 1st day of April, 1993,—

(*a*) for clause (*i*), the following clause shall be substituted, namely:—

"(*i*) in respect of repairs of, and collection of rent from, the property, a sum equal to one-fifth of the annual value;";

(*b*) clause (*viii*) shall be omitted.

Amendment of section 28.

11. In section 28 of the Income-tax Act, after clause (*iv*), the following clause shall be inserted with effect from the 1st day of April, 1993, namely:—

"(*v*) any interest, salary, bonus, commission or remuneration, by whatever name called, due to or received by, a partner of a firm from such firm.".

Provided that where any interest, salary, bonus commission or remuneration, by whatever name called, or,any part thereof has not been allowed to be deducted under clause (*b*) of section 40, the income under this clause shall be adjusted to the extent of the amount not so allowed to be deducted.".

Amendment of section 33AC.

12. In section 33AC of the Income-tax Act, with effect from the 1st day of April, 1993,—

(*a*) in sub-section (*1*), after the words "an assessee, being", the words "a Government company or" shall be inserted ;

(*b*) in the *Explanation*, after clause (*a*), the following clause shall be inserted, namely :—

1 of 1956.

'(*aa*) "Government company" shall have the meaning assigned to it in section 617 of the Companies Act, 1956;'.

Insertion of new section 34A.

13. After section 34 of the Income-tax Act, the following section shall be inserted, namely :—

Restriction on unabsorbed depreciation and unabsorbed investment allowance for limited period in case of certain domestic companies.

"34A. (*1*) In computing the profits and gains of the business of a domestic company in relation to the previous year relevant to the assessment year commencing on the 1st day of April, 1992, where effect is to be given to the unabsorbed depreciation allowance or unabsorbed investment allowance or both in relation to any previous year relevant to the assessment year commencing on or before the 1st day of April, 1991, the deduction shall be restricted to two-third of such allowance or allowances and the balance,—

(*a*) where it relates to depreciation allowance, be added to the depreciation allowance for the previous year relevant to the assessment year commencing on the 1st day of April, 1993 and be deemed to be part of that allowance or if there is no such allowance for that previous year, be deemed to be the allowance for that previous year and so on for the succeeding previous years ;

(*b*) where it relates to investment allowance, be carried forward to the assessment year commencing on the 1st day of April, 1993 and the balance of the investment allowance, if any, still outstanding shall be carried for;ward to the following assessment year and where the period of eight years has expired before, the portion of such balance is adjusted, the said period shall be extended beyond eight years till such time the portion of the said balance is absorbed in the profits and gains of the business of the domestic company.

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(2) For the assessment year commencing on the 1st day of April, 1992, the provisions of sub-section (2) of section 32 and sub-section (3) of section 32A shall apply to the extent such provisions are not inconsistent with the provisions of sub-section (1) of this section.

(3) Nothing contained in sub-section (1) shall apply where the amount of unabsorbed depreciation allowance or of the unabsorbed investment allowance, as the case may be, or the aggregate amount of such allowances in the case of a domestic company is less than one lakh rupees.

(4) Nothing contained in sections 234B and 234C shall apply to any shortfall in the payment of any tax due on the assessed tax or, as the case may be returned income where such shortfall is on account of restricting the amount of depreciation allowance or investment allowance under this section and the assessee has paid the amount of shortfall before furnishing the return of income under sub-section (1) of section 139.".

Amendment of section 36.

14. In section 36 of the Income-tax Act, in sub section (1) in clause (*viii*) for the *Explanation*, the following *Explanation* shall be substituted and shall be deemed to have been substituted, with effect from the 1st day of April, 1987, namely :—

'*Explanation.* —In this case,—

(*a*) "financial corporation" shall include a public company and a Government company ;

(*b*) "public company" shall have the meaning assigned to it in section 3 of the Companies Act, 1956; 1 of 1956.

(*c*) "Government company" shall have the meaning assigned to it in section 617 of the Companies Act, 1956.' 1 of 1956.

Amendment of section 37.

15. In section 37 of the Income-tax Act, for sub-sections (2) and (2A) the following sub-section shall be substituted with effect from the 1st day of April, 1993, namely :—

"(2) Notwithstanding anything contained in sub-section (1), any expenditure in the nature of entertainment expenditure incurred by any assessee during any previous year commencing on the 1st day of April, 1992 shall be allowed as follows:—

(*a*) where the amount of such expenditure does not exceed ten thousand rupees, the whole of such amount ;

(*b*) in any other case, ten thousand rupees as increased by a sum equal to fifty per cent of such expenditure in excess of ten thousand rupees.

Explanation.—For the purposes of this sub-section, "entertainment expenditure" includes—

(*i*) the amount of any allowance in the nature of entertainment allowance paid by the assessee to any employee or other person ;

(*ii*) the amount of any expenditure in the nature of entertainment expenditure [not being expenditure incurred out of an allowance of the nature referred to in clause (*i*)] incurred for the purposes of the business or profession of the assessee by any employee or other person ;

(*iii*) expenditure on provision of hospitality of every kind by the assessee to any person, whether by way of provision of food or beverages or in any other manner whatsoever and whether or not such provision is made by reason of any express or implied contract or custom or usage of trade, but does not include expenditure on food or beverages provided by the assessee to his employees in office, factory or other place of their work.".

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Amendment of section 40.

16. In section 40 of the Income-tax Act, for clause (*b*), the following clause shall be substituted with effect from the 1st day of April, 1993, namely :—

'(*b*) in the case of any firm assessable as such,—

(*i*) any payment of salary, bonus, commission or remuneration, by whatever name called (hereinafter referred to as remuneration) to any partner who is not a working partner; or

(*ii*) any payment of remuneration to any partner who is a working partner, or of interest to any partner, which, in either case, is not authorised by, or is not in accordance with, the terms of the partnership deed; or

(*iii*) any payment of remuneration to any partner who is a working partner, or of interest to any partner, which, in either case, is authorised by, and is in accordance with, the terms of the partnership deed, but which relates to any period (falling prior to the date of such partnership deed) for which such payment was not authorised by, or is not in accordance with, any earlier partnership deed, so, however, that the period of authorisation for such payment by any earlier partnership deed does not cover any period prior to the date of such earlier partnership deed; or

(*iv*) any payment of interest to any partner which is authorised by, and is in accordance with, the terms of the partnership deed and relates to any period falling after the date of such partnership deed in so far as such amount exceeds the amount calculated at the rate of eighteen per cent. simple interest per annum; or

(*v*) any payment of remuneration to any partner who is a working partner, which is authorised by, and is in accordance with, the terms of the partnership deed and relates to any period falling after the date of such partnership deed in so far as the amount of such payment to all the partners during the previous year exceeds the aggregate amount computed as hereunder :—

(*1*) in case of a form carrying on a profession referred to in section 44AA or which is notified for the purpose of that section—

(*a*) on the first Rs. 1,00,000 of the book-profit or in case of a loss	Rs. 50,000 or at the rate of 90 per cent. of the book-profit, whichever is more;
(*b*) on the next Rs. 1,00,000 of the book-profit.	at the rate of 60 per cent.;
(*c*) on the balance of the book-profit	at the rate of 40 per cent.

(2) in the case of any other firm—

(*a*) on the first Rs. 75,000 of the book-profit, or in case of a loss	Rs, 50,000 or at the rate of 90 per cent, of the book-profit, whichever is more;
(*b*) on the next Rs. 75,000 of the book-profit.	at the rate of 60 per cent;
(*c*) on the balance of the book-profit.	at the rate of 40 per cent.

Provided that in relation to any payment under this clause to the partner during the previous year relevant to the assessment year commencing on the 1st day of April, 1993, the terms of the partnership deed may, at any time during the said previous year, provide for such payment.

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Explanation 1.—Where an individual is a partner in a firm on behalf, or for the benefit or any othe person (such partner and the other person being hereinafter referred to as "partner in a representative capacity" and "person so represented", respectively),—

(*i*) interest paid by the firm to such individual otherwise than as partner in a representative capacity, shall not be taken into account for the purposes of this clause;

(*ii*) interest paid by the firm to such individual as partner in a representative capacity and interest paid by the firm to the person so represented shall be taken into account for the purposes of this clause.

Explanation 2.—Where an individual is a partner in a firm otherwise than as partner in a representative capacity, interest paid by the firm to such individual shall not be taken into account for the purposes of this clause, if such interest is received by him on bahelf or for the benefit, of any other person.

Explanation 3.—For the purposes of this clause, "book-profit" means the net profit, as shown in the profit and loss account for the relevant previous year, computed in the manner laid down in Chapter IV--D as increased by the aggregate amount of the remuneration paid or payable to all the partners of the firm if such amount has been deducted while computing the net profit.

Explanation 4.—For the purposes of this clause, "working partner" means an individual who is activly engaged in conducting the affairs of the business or profession of the firm of which he is a partner;".

Amendment of section 40A.

17. In section 40A of the Income tax Act, sub-section (12) shall be omitted with effect from the 1st day of April, 1993.

Amendment of section 41.

18. In section 41 of the Income-tax Act, for sub-section (1), the following sub-section shall be substituted, with effect from the 1st day of April, 1993, namely:—

'(1) Where an allowance or deduction has been made in the assessment for any year in respect of loss, expenditure or trading liability incurred by the assessee (hereinafter referred to as the first-mentioned person) and subsequently during any previous year,—

(*a*) the first-mentioned person has obtained, whether in cash or in any other manner whatsoever, any amount in respect of such loss or expenditure or some benefit in respect of such trading liability by way of remission or cessation there of, the amount obtained by such person or the value of benefit accruing to him shall be deemed to be profits and gains of business or profession and accordingly chargeable to income-tax as the income of that previous year, whether the business or profession in respect of which the allowance or deduction hes been made is in existence in that year or not; or

(*b*) the successor in busines has ontained, whether n cash or in any other manner whatsoever, any aount in respect o- which loss or expeniture was incurred by the first-mentioned person or some benefit in respect of the trading liability referred to in clause (*a*) by way of remission or cessation thereof, the amount obtained by the successor in business or the-Value of benefit accruing to the sucessor in business shall be deemed to be profits and gains of the business or profession, and accordinly chargeable to income-tax as the income of that previous year.

Explanation.— For the purposes of this sub-section, "successor in business" means,—

(*i*) where there has been an amalgamation of a company with another company, the amalgamated company;

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(*ii*) where the first-mentioned person is succeeded by any other person in that business or profession, the other person;

(*iii*) where a firm carrying on a business or profession is suceeded by another firm, the other firm.'.

19. In section 44AA of the Income-tax Act, in sub-section (*2*), with effect from the 1st day of April, 1993,—

Amendment of section 44AA.

(*a*) for the words twenty-five thousand", at both the places where they occur, the words "forty thousand" shall be substitued;

(*b*) for the words "two hundred and fifty thousand", at both the places where thet occur, the words "five hundred thousand" shall be substituted.

20. In section 44AB of the Income-tax Act"in the proviso for the words" Provided that", the following shall be substituted and shall be deemed to have been substituted, with effect from the 1st day of April, 1985, namely:—

Amendment of section 44AB.

"Provided that this section shall not apply to the person, who derives income of the nature referred or in section 44AC or section 44B or section 44BB or section 44BBA or section 44BBB, on andjfrom the 1st day of April, 1985 or, as the case may be, the dateon whic h the relvevant section came into force, which ever is later:

Provided further that".

21 .Section 44AC of the Income-tax Act shall be omitted with effect from the 1st day of April, 1993.

Omission of section 44AC.

22. In section 45 of the Income-tax Act, in sub-secion (1), the figures "53", shall be omitted with effect from the 1st day of April, 1993.

Amendment of section 45.

23. In section 47 of the Income-tax Act,—

Amend. ment of section 47.

(*a*) after clause (*vi*), the following clause shall be inserted, with effect from the 1st day of April, 1993, namely:—

"(*via*) any transfer, in a scheme of amalgamation, of a capital asset being a share or shares held in an Indian company, by the amalgamting foreign company to the amalgamated foreign company, if—

(*a*) at last twenty-five per cent. of the shareholders of the amalgamating foreign company continue to remain shareholders of the amalgamated foreign company, and

(*b*) such transfer does not attract tax on capital gains in the country, in which the amalgamating company is incorporated;";

(*b*) after clause (*vii*), the following clause shall be inserted, with effect from the 1st day of June, 1992, namely:—

"(*viia*) any transfer of a capital asset, being bonus or shares referred to in sub-section (1) of section 115AC, made outside India by a non-resident to another non-resident;";

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(c) in clause (x), for the words "conversion of debentures", the words "conversion of bonds or debentures" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1962.

Substitution of new section for section 48

21. For section 48 of the Income - tax Act, the following section shall be substituted, with effect from the 1st day of April, 1993, namely :—

Mode of comeutation,

'48. The income chargeable under the head "Capital gains" shall be computed, by deducting from the full value of the consideration received or accruing as a result of the transfer of the capital asset the following amounts, namely:—

(i) expenditure incurred wholly and exclusively in connection with such transfer ;

(ii) the cost of acquisition of the asset and the cost of any improvement thereto:

Provided that in the case of an assessee, who is a non-resident, capital gains arising from the transfer of a capital asset being shares in, or debentures of, an Indian company shall be computed by converting the cost of acquisition, expenditure incurred wholly and exclusively in connection with such transfer and the full value of the consideration received or accruing as a result of the transfer of the capital asset into the same foreign currency as was initially utilised in the purchase of the share or debentures, and the capital gains so computed in such foreign currency shall be reconcerted into Indian currency, so, however, that the aforesaid manner of computation of Capital gains shall be applicable in respect of capital gains accuring or arising from every reinvestment thereafter in, and safe, of, shares in, or debentures of, an Indian company.

Provided further that where long-term capital gain arises from the transfer of a long-term capital asset. other than capital gain arising to a non-resident from the transfer of shares in, or debentures of, an Indian company referred to in thefirst proviso, the provisions of clause (ii) shall have effect as if for the words "cost of acquisition" and "cost of any improvement", the words indexed cost of acuisition" and indexed cost of any improvement" had respectively been substituted.

Explanation.—For the purposes of this section.—

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(i) "foreign currency" and "Indian currency" shall have the meanings respectively assigned to them in section 2 of the Foreign Exchange Regulation Acts 1973;

(ii) the conversion of Indian currency into foreign currency and the reconversion of foreign currency into Indian currency shall be at the rate of exchange prescribed in this behalf;

(iii) "indexed cost of acquisition" means an amount which bears to the cost of acquisition the same proportion as Cost Inflation Index for the year in which the asset is transferred bears to the Cost Inflation Index for the first year in which the asset was held by the assessee or for the year beginning on the 1st day of April, 1981, whichever is later;

(iv) "indexed cost of any improvement" means an amount which bears to the cost of improvement the same proportion as Cost Inflation Index for the year in which the asset is transfered bears to the Cost Inflation Index for the year in which the improvement to the asset took place;

(v) "Cost Inflation Index" for any year means such Index as the Central Government may, having regard to seventy-five per cent of average rise in the Consumer Price Index for urban non-manual employees for that year, by notification in the *Official Gazette*, specify in this behalf;.

25. In section 49 of the Income-tax Act, in sub-section (*1*), in clause (*iii*), in sub-clause (*e*), after word, breackets and figures "clause (*vi*)", the words, brackets, figures and letter "or clause (*via*)" shal be inserted with effect from the 1st day of April, 1993.

Amendment of Section 49.

26. Section 53 of the Income-tax Act shall be omitted with effect from the 1st day of April, 1993.

Omission of section 53.

27. In section 54 of the Income-tax Act, in sub-section (*2*), the *Explanation* shall be omitted with effect from the 1st day of April, 1993.

Amendment of 54

28. In section 54B of the Income-tax Act in sub-section (*2*), the *Explanation* shall be omitted with effect from the 1st day of April, 1993.

Amendment of section 54B.

29. In section 54D of the Income-tax Act, in sub-section (*2*), the *Explanation* shall be omitted with effect from the 1st day of April, 1993.

Amendment of section 54D.

30. In section 54E of the Income-tax Act,—

Amendment of section 54E.

(*i*) in sub-section (*1*)—

(*a*) after the words "long-term capital asset", the words figures and letters "before the 1st day of April, 1992," shall be inserted;

(*b*) in the second proviso, the words, figures and letters "or the 31st day of March, 1992, whichever is earlier" shall be inserted at the end;

(*ii*) after sub-section (*1B*), the following sub-section shall be inserted, namely—

"(*1C*) Notwithstanding anything contained in sub-section (*1*), where the capital gain arises from the transfer of the original asset, made after the 31st day of March, 1992, in respect of which the assesseee had received any amount by way of advance on or before the 29th day of February, 1992 and had invested or deposited the whole or any part of such amount in the new asset on or before the later date, then the provisions of clauses (*a*) and (*b*) of sub-section (*1*) shall apply in the case of such investment or deposit as they apply in the case of investment or deposit under that sub-section."

31. In section 54F of the Income-tax Act, in sub-section (*4*), the *Explanation* shall be omitted with effect from the 1st day of April, 1993.

Amendment of section 54F.

32. In section 54G of the Income-tax Act, in sub-section (*2*), the *Explanation* shall be omitted with effect from the 1st day of April, 1993.

Amendment of section 54G.

33. In section 54H of the Income tax Act, the figures and letter "54E" shall be omitted.

Amendment of section 54H.

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Amendment of section 55.

34. In section 55 of the Income-tax Act, with effect from the 1st day of April, 1993,—

(*a*) in sub-section (*1*), in clause (*b*), in sub-clause (*2*), in item (*i*),—

(*i*) for the figuret"1974" the figures "1981", shall be subsituted;

(*ii*) the words "and the fair market value of the asset on that day is taken as the cost of acquisition at the option of the assessee," shall be omitted:

(*b*) in sub-section (*2*), in clause (*b*), for the figures "1974", wherever they occur, the figures "1981" shall be substituted.

Amendment of section 64.

35. In section 64 of the Income-tax Act, with effect from the 1st day of April, 1993,—

(*a*) in sub-section (*1*),–

(*i*) clause (*i*) shall be omitted.

(*ii*) clauses (*iii*) and (*v*) shall be omitted;

(*iii*) in clause (*iv*), the words, brackets and figure "in a case not falling under clause (*i*) of this sub-section." shall be omitted;

(*iv*) in clause (*vi*), the words "or son's minor child,", wherever they occur shall be omitted;

(*v*) in clause (*vii*), the words "or minor child or both" shall be omitted;

(*vi*) in clause (*viii*), the words "or son's minor child or both" shall be omitted;

(*vii*) *for Explanations* 1 and 1A, the following *Explanation* shall be substituted, namely:—

"*Explanation 1*—For the purposes of clause (*ii*), the individual in computing whose total income the income referred to in that clause is to be included, shall be the husband or wife whose total income (exclusding the income referred to in that clause) is greater; and where any such incone in once included in the total income of either spouse, any such income arising in any succeeding year shall not be included in the total income of the other spouse unless the Assessing Officer is satisfied after giving that spouse an opportunity of being heard, that it is necessary so to do.";

(*viii*) *Explanation 2A* shall be omitted;

(*ix*) for *Explanation* 3, the following *Explanation* shall be substituted, namely:—

'*Explanation* 3.—For the purposes of clauses (*iv*) and (*vi*), where the assets transferred directly or indirectly by an individual to his spouse or son's wife (hereafter in this *Explanation* referred to as "the transferr") are invested by the transferee,—

(*i*) in any business, such investment being not in the nature of contribution of capital as a partner in a firm or, as the case may be, for being admitted to the benefits of partnership in a firm, that part of the incime arising out of the business to the transferee in any previous year, which bears the same proporation to the income of the transferee from the business as the value of the assets aforesaid as on the first day of the previous year bears to the total investment in the business by the transferee as on the said day;

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(*ii*) in the nature of contribution of capital as a partner in a firm, that part of the interest teceivable by the transferee from the firm in any previous year, which bears the same proportion to the interest receivadle by the transferee from the firm as the value of investment aforesaid as on the first day of the previous year bears to the total investment by way of capital contraibution as a partner in the firm as on the said day,
shall be included in the total income of the individual in that previous year.';

(*b*) after sub-section (*1*), the following sub-sction shall be inserted, namely:—

"(1*A*) in computing the total income of any individual, there shall be included all such income as arises or accrues to his minor child:

Provided that nothing contained in this sub-section shall apply in respect of such income as arises or accrues to the minor child on account of any—

(*a*) manual work done by him; or

(*b*) activity involving application of his skill talent or speciallised knowledge and experience.

Explanation.—For the purposes of this sub-section the income of the minor child shall be included,—

(*a*) where the marriage of his parents subsists, in the income of that parent whose total income (excluding the income includible under this sub-section) is greater; or

(*b*) where the marriage of his parents does not subsist, in the income of that parent who maintains the minor child in the previous year,

and where any such income is once included in the total income of either parent, any such income arising in any succeding year shall not be included in the total income of the other parent, unless the Assessing Officer is satisfied after giving that parent an opportunity of being heard, that it is necessary so to do.";

(*c*) in sub-section (*2*), the words "or minor child" wherever they occur, shall be omitted.

Omission of section 67.

36. Section 67 of the Income-tax Act shall be omitted with effect from the 1st day of April, 1993.

Amendment of section 71.

37. In section 71 of the Income-tax Act, after sub-section (3), the following sub-section shall be inserted, with effect from the 1st day of April, 1993, namely:—

(4) Notwithstanding anything contained in sub-sections (*1*) and (*2*), where in respect of any assessment year the net result of the computation, in relation to any property [other than the property referred to in sub-clause (*i*) of clause (*a*) of sub-section (*2*) of section 23], under the head "Income from house property" is a loss and the assessee has income assessable under any other head of income, the assessee shall not be entitled to have such loss set off against income under the other head.'.

Insertion of new section 71A.

38. After section 71 of the Income-tax Act, the following section shall be inserted, with effect from the 1st day of April, 1993, namely:—

Carry forward of losses under the head "Income from house property".

"71A. Wherein respect of any assessment year, the net result of the computation under the head "Income from house property" is a loss, the loss in so far as it relates to interest on borrowed capital referred to in clause (*vi*) of sub-section (*1*) of section 24 shall be carried forward by the assessee to thefollowing assessment year or years and set off against the income under that head";

Substitution of new section for sections 75, 76 and 77.

39. For sections 75,76 and 77 of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 1993, namely:—

Losses of of firms.

"75. Where the assessee is a firm, any loss in relation to the assesseement year commencing on or before the 1st day of April, 1992, which could not be set of 7 against any other income of the firm and which had been apportioned to a partner of the firm but could not be set off by such partner prior to the assessment year commencing on the 1st day of April, 1993, then, such loss shall allowed to be set off against the income of the firm subject to the conditions that the partner continues in the said firm and to be carried forward for set off under sections 70, 71, 72, 73, 74 and 74A".

Amendment of section 78.

40. In section 78 of the Income-tax Act, for sub-section *(1)*, the following sub-section shall be substituted, with effect from the 1st day of April, 1993, namely:—

"(1) Where a change has occurred in the constitution of a firm, nothing in this Chapter shall entitle the firm to have carried forward and set off so much of the loss proportionate to the share of a retired or deceased partner as exceeds his share of profits, if any, in the firm in respect of the previous year.".

Amendment of section 80A.

41. In section 80A of the Income-tax Act, for, sub-section (3), the following sub-section shall be substituted, with effect from the 1st day of April, 1993, namely:—

"(3) Where, in computing the total income of an association of persons or a body of individuals, any dedution is admissible under section 80G or section 80GGA or section 80HH or section 80HHA or section 80HHB or section 80HHC or section 80HHD or section 80-I or section 80-IA or section 80J or section 80JJ, no deduction under the same section shall be made in computing the total income of a member of the association of persons or body of individuals in relation to the share of such member in the income of the association of persons or body of individuals.".

Amendment of section 80CCA.

42. In section 80CCA of the Income-tax Act, with effect from the 1st day of April, 1993,—

(a) in sub-section *(1)*, after the proviso, the following proviso shall be inserted namely:—

"Provided further than no deduction under this sub-section shall be allowed in relation to any amount deposited or paid under clauses *(i)* and *(ii)* on or after the 1st day of April, 1992.";

(b) in sub-section *(2)*, the following proviso shall be inserted at the end, namely:

"Provided, that nothing contained in this sub-section shall apply to any amount received by the assessee on account of the surrender of the policy in accordance with the terms of the annuity plan of the Life Insurance Corporation where the assessee elects to surrender before the 1st day of October, 1992, the said annuity plan in respect of which he had paid any amount under clause *(ii)* of sub-section *(1)* before the 1st day of April, 1992."

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43. In section 80CCB of the Income-tax Act, in sub-section (*1*), the following proviso shall be inserted at the end, with effect from the 1st day of April, 1993, namely:— Amendment of section 80 CCB.

"Provided that no deduction shall be allowed in relation to any amount invested under this sub-section on or after the 1st day of April, 1992.".

44. In section 80D of the Income-tax Act, in sub-section (*1*), for the words "three thousand rupees", wherever they occur, the words "six thousand rupees" shall be substituted with effect from the 1st day of April, 1993. Amendment of section 80D.

45. In section 80DD of the Income-tax Act, with effect from the 1st day of April, 1993,— Amendment of section 80DD.

(*a*) in sub-section (*1*),—

(*i*) the brackets and figures "(1)" shall be omitted ;

(*ii*) for the words "six thousand rupees", the words "twelve thousand rupees", shall be substituted ;

(*b*) sub-section (*2*) shall be omitted.

46. In section 80HHC of the Income-tax Act,— Amendment of section 80HHC.

(*a*) in sub-section (*1*), in the proviso, for the words "total profits of the export business of the assessee the same proportion as the amount of export turnover specified in the said certificate be ars to the total export turnover of the assessee", the words "total profits derived by the assessee from the export of trading goods, the same proportion as the amount of export turnover specified in the said certifieate bears, to the total export turnover of the assessee in respect of such trading goods" shall be substituted ;

(*b*) in sub-section (*3*), for the words "manufactured by the assessee", wherever they occur, the words "manufactured or processed by the assessee" shall be substituted.

47. In section 80-IA of the Income-tax Act, in sub-section (*12*), for clause (*f*), the following clause shall be substituted, with effect from the 1st day of April, 1993, namely:— Amendment of section 80-IA.

(*f*) "small scale industrial undertaking" means an industrial undertaking which is, as on the last day of the previous year, regarded as a small-scale industrial undertaking under section 11B of the Industries (Development and Regulation) Act, 1951.". 65 of 1951.

48. In section 80L of the Income-tax Act, the first and second provisos to sub-section (1) shall be omitted with effect from the 1st day of April, 1993. Amendment of section 80L.

49. For section 86 of the Income-tax Act, following section shall be substituted, with effect from the 1st day of April, 1993, namely:— Substitution of new section for section 56.

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Share of member of an association of persons or body of individuals in the income of the association or body.

"86. Where the assessee is a member of an association of persons or body of individuals (other than a company or a co-operative society or a society registered under the Societies Registration Act, 1860 or under any law corresponding to that Act in force in any part of India), income-tax shall not be payable by the assessee in respect of his share in the income of the association or body computed in the manner provided in section 67A :

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Provided that,—

(*a*) where the association or body is chargeable to tax on its total income at the maximum marginal rate or any higher rate under any of the provisions of this Act, the share of a member computed as aforesaid shall not be included in his total income ;

(*b*) in any other case, the share of a member computed as aforesaid shall form part of his total income ;

Provided further that where no income-tax is chargeable on the total income of the association or body, the share of a member computed as aforesaid shall be chargeable to tax as part of his total in come and nothing contained in this sectain shall apply to the case.";

Amendment of section 87.

50. In section 87 of the Income-tax Act, with effect from the 1st day of April, 1993,—

(*a*) in sub-section (*1*), for the words, figures and letter "sections 88 and 88A", the words, figures and letters "sections 88, 88A and 88B" shall be substituted;

(*b*) in sub-section (*2*), after the words, figures and letter "sections 88A", the words, figures and letter "or section 88B" shall be inserted.

Amendment of section 88.

51. In section 88 of the Income-tax Act,—

(*i*) in sub-section (*1*), the following proviso shall be inserted, with effect from the 1st day of April, 1993, namely:—

'Provided that in the case of an individual, whose income deridved from the exercise of his profession as an author, playwright, artist, musician, actor or sportsman (including an athelete), is twenty-five per cent, or more of his total income, the provisions of this sub-section shall have effect as if for the words "twenty-five per cent." the words "twenty five per cent." had been sub-stituted.";

(*ii*) in sub-section (2),—

(*a*) in clause (*ii*), for the words, brackets, figures, and letters "not being an annuity plan referred to in clause (*ii*) of sub-section (*1*) of section 80CCA", the words, brackets, figures and letter "not being an annuity plan referred to in clause (*xiiia*)" shall be substituted with effct from the 1st day of April, 1993;

(*b*) in clause (*ix*), after the words "the Central Government", the words "or any such deposit scheme" shall be inserted with effect from the 1st day of April, 1993;

(*c*) after clause (*xiii*), the following clause shall be inserted, with effect from the 1st day of April, 1993, namely:—

"(*xiiia*) to effect or to keep in force a contract for such annuity plan of the Life Insurance Corporation as the Central Government may, by notification in the Official Gazette, specify ;

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(*xiiib*) as subscription notexceeding ten thousand rupees, to any units of any Mutual Fund notified unde clauser (23D) of section 10 as the Unit Trust India established undar the Unit Trust of India Act, 1963, under any plan of formulated in accordance with such scheme at the Central Government may, by notification in the Official Gazette, specify in this behalf;

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(*xiiic*) as a contribution by an individual to any pension fund set up by any Mutul Funb, notified under clause (23*D*) of section 10, as the Central Government may by notification in the Official Gazette, specify in this behalf;";

(*d*) in clause (*xiv*), after the words "as subscription to any such deposit scheme of", the words, "or as a contribution to any such pension fund set up by," shall be inserted with effect from the 1st day of April, 1993;

(*e*) in clause (*xv*), in sub-section (*c*), in item (*7*), after the words "a local authority", the words "or a co-operative society" shall be inserted ;

(*iii*) in sub-section (*6*), with effect from the 1st day of April, 1993,—

(*a*) in clause (i), for the words and brackets '(being an author, playwright, artist, musician, actor or sportsman (including an athelete), fourteen thousand", the words and brackets "whose income, derived from the exercise of hisprof-fession as an author, playwright, artist, musician, actor or sportsman, (including an athelete), is twenty-five per cent, or more of his total income, seventeen thousand five hundred" shall be substituted ;

(*b*) in clause (ii), for the words "ten thousand", the words "twelve thousand" shall be substituted.

52. After section 88A of the Income-tax Act, the following section shall be inserted, from the Ist day of April, 1993, namely:—

Insertion of new section 88B.

88B. An assessee, being an individual resident in India, who is of the age of sixty five years or more at any time during the previous year and whose gross total income does not exceed fifty thousand rupees, shall be entitled to a deduction from the amount of income-tax (as computed before allowing the deductions under this Chapter) on his total income with which he is chargeable for any assessment year, of an amount equal to ten per cent. of such income-tax.

Rebate of income-tax in case of individuals of sixty five years and above.

Explanation:—For the purposes of this section, "gross total income" means the total income computed in accordance with the provisions of this Act, before making any deduction under Chapter VI-A.

53. After section 111 of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 1993, namely:—

Insertion of new section 112.

112. (1) Where the total income of an assessee includes any income, arising from the transfer of a long-term capital asset, which is chargeable under the head "Capital gains", the tax payable by the assessee on the total income shall be the aggregate of,—

Tax on long-term capital gains.

(*a*) in the case of an individual or a Hindu undivided family,—

(*i*) the amount of income-tax payable on the total income as reduced by the amount of such long-term capital gains, had the total income as so reduced been his total income; and

(*ii*) the amount of income-tax calculated on such long-term capital gains at the rate of twenty per cent;

Provided that where the total income as reduced by such long-term capital gains is below the maximum amount which is not chargeable to income-tax, then, such long-term capital gains shall be reduced by the amount by which the total income as so reduced falls short of the maximum amount which is not chargeable to income tax and the tax on the balance of such long-term capital gains shall be computed at the rate of twenty per cent.;

(*b*) in the case of a company,—

(*i*) the amount of income-tax payable on the total income as reduced by the amount of such long-term capital gains, has the total income as so reduced been its total income; and

(*ii*) the amount of income-tax calculated on such long-term capital gains at the rate of forty per cent. :

Provided that in relation to long-term capital gains arising to a venture capital company from the transfer of equity shares of venture capital undertakings the provisions of sub-clause (*ii*) shall have effect as if for the words "forty per cent." the words "twenty per cent." had been substituted;

(*c*) in any other case,—

(*i*) the amount of income-tax payable on the total income as reduced by the amount of long-term capital gains, had the total income as so reduced been its total ineome; and

(*ii*) the amount of income-tax calculated on such long-term capital gains at the rate of thrtty per cent.

Explanation.—For the purposes of this sub-section,—

(*a*) "venture capital company" means such company as is engazed in providing fincoce to ventereecapital undertakings mainly by way ef ccquiring requity shares of sech undertakings or, if the circumstan so require by way of advancing loans to such undertakings, and is approved by the Central Governcent in this behalf;

(*b*) "venture capital undertaking" means such company as the prescribed authority may, having regard to the following factors, approve for the purposes of this sub-section , namely:—

(*1*) the total investment in the company does not exceed ten crore rupees or such other higher amount as may be prescribed.

(*2*) the company does not have adequate financial resources to undertake projects for which it is otherwise professionally or technically equipped; and

(*3*) the company seeks to employ any technology which will result in significant improvement over the existing technology in India in any field and the investment in such technology involves high risk.

(*2*) Where the gross total income of an assessee includes any income arising from the transfer of a long-term capital asset, the gross total income shall be reduced by the amount of such income and the deduction under Chapter VI-A shall be allowed as if the gross total income as so reduced were the gross total income of the assessee.

(*3*) Where the total income of an assessee includes any income arising from the transfer of a long-term capital asset, the total income shall be reduced by the amount of such income and the rebate under section 88 shall be allowed from the income-tax on the total income as so reduced;.

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Amendment of section 115A.

54. In section 115A of the Income-tax Act, with effect from the 1st day of June, 1992,—

(*a*) in sub-section (*1*), in clause (b), for the words "such agreement is aproved by the Central Government," the words "the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy" shall be substituted.

(*b*) in sub-section (*1A*) for the words "and approved by the Central Government", the words "approved by the Central Government or where the agreement relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy" shall be substituted.

Amendment of section 115AB.

55. In section 115AB of the Income-tax Act, in sub-section (*2*), in clause (*a*), with effect from the 1st day of April, 1993,—

(*i*) the words, brackets and figures "or sub-section (*2*) of section 48" shall be omitted;

(*ii*) after the word, figures and letter "Chapter VI-A", the words, figures, brackets and letter "and nothing contained in the provisions of the second proviso to section 48 shall apply to income referred to in clause (*b*) of sub-section (*1*)" shall be inserted.

Insertion of new section 115AC.

56. After section 115AB of the Income-tax Act, the following section shall be inserted, with effect from the 1st day of April, 1993, namely.—

Tax on income from bonds or shares purchased in foreign currency or capital gains arising from their transfers.

"115AC. (*1*) Where the total income of an assessee, being a non-resident, includes—

(*a*) income by way of interest or dividends, on bonds or shares of an Indian company, issued in accordance with such scheme as the Central Government may, by notification in the *Official Gazette*, specify in this behalf, and purchased by him in foreign currency; or

(*b*), income by way of long-term capital gains arising from the transfer of bonds or, as the case may be, shares referred to in clause (*a*),

the income-tax payable shall be the aggregate of—

(*i*) the amount of income-tax calculated on the income by way of interest or dividends, as the case may be, in respect of bonds or shares referred to in clause (*a*), if any, included in the total income. at the rate of ten per cent.;

(*ii*) the amount of income-tax calculated on the income by way of long-term capital gains referred to in clause (*b*), if any, at the rate of ten per cent.; and

(*iii*) the amount of income-tax with which the non-resident would have been chargeable had his total income been reduced by the amount of income referred to in clause (*a*) and clause (*b*).

(*2*) Where the gross total income of the non-resident—

(*a*) consists only of income by way of interest or dividends in respect of bonds or, as the case may be, shares referred to in clause (*a*) of sub-section (*1*), no deduction shall be allowed to him under section 28 of 44C or clause (*i*) or clause (*iii*) of section 57 or under Chapter VI-A;

(*b*) includes any income referred to in clause (a) or clause (*b*) of sub-section (*1*) the gross total income shall be reduced by the amount of such income and the deduction under Chapter VI-A shall be allowed as if the gross total income as so reduced, were the gross total income of the assessee.

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(*5*) Nothing contained in the first and second provisions to section 48 shall apply for the computation of long-term capital gains arising out of the transfer of long-term capital asset, being bonds or shares referred to in clause (*b*) of sub-section (*1*).

(*4*) It shall not be necessary for a non-resident to furnish under sub-section (*1*) of section 139 a return of his income if—

(*a*) his total income in respect of which he is assessable under this Act during the previous year consisted only of income referred to in clause (*a*) of sub-section (*1*); and

(*b*) the tax deductible at source under the provisins of Chapter XVII-B has been deducted from such income."

Amendment of section 115D.

57. In section 115D of the Income-tax Act, in sub-section (*2*) in clause (*a*), for the words, brackets, figures and letter "under sub-section (*2*) of section 48 or under Chapter VI-A", the words 'figures and letter' under Chapter VI-A and nothing contained in the provisions of the second proviso to section 48 shall apply to income chargeable under the head "Capital gains" shall be substituted with effect from the 1st day of April, 1993.

Insertion of new Chapter XII-C.

58. After Chapter XII-B of the Income-tax Act, the following Chapter shall be inserted, with effect from the 1st day of April, 1993, namely:—

CHAPTER XII-C

SPECIAL PROVISIONS RELATING TO RETAIL TRADE, ETC.

Special provision for computation of Income in certain cases.

115K. (*1*) Notwithstanding anything contained in any other provisions of this Act relating to the computation of income chargeable under the head "Profits and gains of business or profession", in the case of any person, to whom this section applies, carrying on—

(*a*) the business of retail trade in any goods or merchandise and who submits a statement in accordance with the provisions of sub-section (*4*), a sum equal to seven per cent. of the amount specified in sub-section (*5*) shall be deemed to be the profits and gains of such person from the business of retail trade;

(*b*) the business of running an eating place or engaged in any vocation and who submits a statement in accordance with the provisions of sub-section (*4*), a sum of thirty-five thousand rupees shall be deemed to be the profits and gains of such person from such business or vocation.

(*2*) The provisions of sub-section (*1*) shall apply to any person, being an individual or a Hindu individed family , where—

(*a*) such parson has not been assessed to income-tax for any assessment year commencing on or before the 1st day of April, 1992;

(*b*) in the case of person referred to in—

(*i*) clause (*a*) of sub-section (*1*), his turnover from the business of retail trade during the relevant previous year does not exceed five lakh rupees and his income from such business during that year does not exceed thirty-five thousand rupees;

(*ii*) clause (*b*) of sub-section (*1*), his income from the business of running the eating place or from the vocation during the relevant previous year does not exceed thirty-five thousand rupees; and

(*c*) such person does not have any income, in excees of five thousand rupees in the aggrefate, chargeable to tax from any source falling under any head of income

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other than the income from the business of retail trade or from the business of running the eating place or from the vocation during the relevant previous year.

(*3*) Any person to whom this section applies shall be liable to pay tax, at the rate specified in the Finance Act of the relevant year for compuring advance tax, on the income deemed under sub-section (*1*) and the other income referred to in clause (*c*) of sub-section (*2*).

(*4*) Every statement referred to in sub-section (*1*) shall—

(*a*) be in the prescribed form, contain the name of such person, his address, nature of business or vocation and a declaration by him that,—

(*i*) where he is carrying on the business of retail trade, his turnover from such trade during the relevant previous year does not exceed five lakh reupees and his income from such trade during that year does not exceed thirty-five thousand rupees;

(*ii*) where he is carrying on the business of running the eating place or is engaged in the vocation, his income during the relevant previous year from such business or vocation does not exceed thirty-five thousand rupees,

and such statement shall also be verified in the prescribed manner;

(*b*) be submitted on or before the 31st day of march of the relevant previous year along with the proof of payment of the amount of tax referred to in sub-section (*3*).

(*5*) In the case of person who has submitted a statement under clause (*a*) of sub-section (*1*), an annual turnover of five lakh rupees from the retail trade carried on by him during the relevant previous year shall be deemed to be the amount referred to in that sub-section.

(*6*) The provisions of this Chapter shall apply in relation to the assessment year commencing on the 1st day of April, 1993 and the 1st day of April, 1994.

Explanation.—For the purposes of this section, "Vocation" includes tailoring, hair-cutting, clothes' washing, typing, photocopying, repair work of any kind and other services of a similar nature.

Return of income not to be filed in certain cases.

115L. Subject to the provisions of section 115N, a person who has submitted a statement under sub--section (*1*) of section 115K shall not be required to furnish a return of income under sub-section (*1*) of section 139 and the other provisions of Chapter XIV will not apply in his case.

Special provision for disallowance of deductions and rebate of income tax.

115M. No deduction under Chapter VI--A (except section 80 L) or rebate of income-tax under Chapter VIII shall be allowed in the case of a person who has submitted a statement under sub-section (f) of section 115K.

Bar of proceedings in certain cases.

115N. No proceeding under any other Chapter of this Act shall be initiated against any person who has submitted a statement under sub-section (*1*) of section 115K in respect of his income from retail trade or eating place or vocation for the relevant assessment year unless the Deputy Commissioner, in consequence of evidence in his possession, has reason to believe that the statement furnished by any person under section 115K is untrue.'

Amendment of section 139.

59 In section 139 of the Income-tax Act. in sub-section (*1A*) shall be omitted with effect from the 1st day of april, 1993.

Amendment of Sectiin 143.

60. In section 143 of the Income--tax Act, in sub--section (*1A*) after the words "as a result of an order under", the words, brackets and figure "sub-section (*3*) of this section or" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1989.

Amendment of section 154.

61. In section 153 of the Income-tax Act, in sub--section (*2*), in cluase (*b*), the following proviso shall be inserted at the end , namely:—

"Provided that the Assessing Officer shall make an amendmen for rectifying any mistake, which has been brought to his notice by the assessee in relation to an intimation referred to in clause (*b*) of sub-section (*1*), within a period of three months from the end of the month in which it is so brought to his notiice and if no such amendment made within the said period of three months, the assessee may appeal to the Deputy Commissioner (Appeals) or, as the case may be, Commissioner (Appeals) against such intimation and the provisions of section 246 and section 249 shall have e.ect as if the said intimation were an order for the purposes of those sections.".

Amendment of section 155.

62. In section 155 of the Income-tax Act, with effect from the 1st day of April, 1993.—

(*a*) in sub--section (*1*), in the opening paragraph for the words " Where in respect of any completed assessment of a partner in a firm", the words, figures and letters "Where, in respect of any completed assessment of a partner in a firm for the assessment year commencing on the 1st day of April, 1992, or any earlier assessment year," shall be substituted;

(*b*) after sub-section (*1*), the following sub-section shall be inserted, namely;—

"(*1A*) Where in respect of any completed assessment of a firm it is found—

(*a*) on the assessment or reassessment of the firm, or

(*b*) on any reduction or enhancement made in the income of the firm under this section, section 154, section 250, section 254, section 260, section 262, section 263 or section 264, or

(*c*) on any order passed under sub-section (*4*) of section 245D on the application made by the firm,

that any remuneration to any partner is not deductible under clause (*b*) of section 40, the Assessing Officer may amend the order of assessment of the partner with a view to adjusting the income of the partner to the extent of the amount not so deductible; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the end of the financial year in which the final order was passed in the case of the firm.".

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63. In section 158 of the Income-tax Act, for the words" Whernever a regsitered firm is assesed", the words, figures and letters "Whenever, in respect of the assessment year commencing on the 1st day of April, 1992, or any earlier assessment year, a registered firm is assessed" shall be substituted with effect from the 1st day of April, 1993.

Amendment of section 158.

64. In Chapter XV of the Income-tax Act, for the sub-heading "*DD.—Association of persons and body of individuals*", the following shall be subtituted, with effect from the 1st day of April, 1993, namely:—

Substitution of sub-heading in Chapter XV.

"*DD.—Firms, association of persons and body of individuals*

167A. In the case of a firm which is assessable as a firm., tax shall be charged on its total income at the maximum marginal rate.".

Charge of tax in the case [illegible] a firm

65. Sections 182 and 183 of the Income-tax Act shall be omitted with effect from the 1st day of April, 1993.

Omission of sections 182 and 183.

66. For the sub-heading "*B.—Registration of firms*" occurring before section 184 and for sections 184, 185 and 186 of the Income-tax Act, the following sections shall be substituted, with effect from the 1st day of April, 1993, namely.—

Substitution of new-sections for Section 184, 185 **and 186.**

"184. (*1*) A firm shall be assessed as a firm for the purposes of this Act, if—

(*i*) the partnership is evidenced by an instrument; and

(*ii*) the individual shares of the partners are specified in that instrument.

Assessment as a firm.

(*2*) A certified copy of the instrument of partnership referred to in sub-section (*1*) shall accompany the return of income of the firm of the previous year relevant to the assessment year commencing on or after the 1st day of April, 1993 in respect of which assessment as a firm is first sought.

Explanation.- For the purposes of this sub-section, the copy of the instrument of partnership shall be certified in writing by all the partners (not being minors) or, where the return is made after the dissolution of the firm, by all persons (not being minors) who were partners in the firm immediately before its dissolution and by the legal representative of any such partner who is deceased.

(*3*) Where a firm is assessed as such for any assessment year, it shall be assessed in the same capacity for every subsequent year if there is no change in the constitution of the firm or the shares of the partners as evidenced by the instrument of partnership on the basis of which the assessment as a firm was first sought.

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(4) Where any such change had taken place in the previous year, the firm shall furnish a certified copy of the revised instrument of partnership along with the return of income for the assessment year relevant to such previous year and all the provisions of this section shall apply accordingly.

(5) Notwithstanding anything contained in the foregoing provisions of this section, where, in repect of any assesment year, there is on the part of a firm any such failure as is mentioned in section 144, the firm shall not be assessed as such for the said assessment year and, thereupon, the firm shall be assessed in the same manner as an association of persons, and all the provision of this Act shall apply accordingly.

Assessment when section 184 not complied with.

185. Where a firm does not comply with the provisions of section 184 for any assessment year, the firm shall be assessed for that assessment year in the same mannar as assoiciation of person, and all the provision of this Act shall apply accordingly."

Amendment of section 187.

67. In section 187 of the Income-tax Act, in sub-section (*1*) the proviso shall be omitted with effect from the 1st day of April, 1993.

Amendment of section 189.

68 In section 189 of the Income-tax Act, the *Explanation* below sub-section (*2*) shall be omitted with effect from the 1st day of April, 1993.

Insertion of new section 189A.

69. In chapter XVI of the Incometax Act, after section 189, the following section shall be inserted, with effect from the 1st day of April, 1993, namely:—

Provisions applicable to past assessments of firms.

"189A. In relation to the assessment of any firm and its partners for the assessment year commencing on the 1st day of April, 1992. or any earlier assessment year, the provisions of this Chapter as they stood immediately before the 1st day of April, 1993, shall continue to apply.".

Amendment of section 193.

70. In section 193 of the Income-tax Act, with effect from the 1st day of June, 1992,—

(*a*) the first proviso shall be omitted ;

(*b*) in the second proviso the word "further" shall be omitted

(*c*) in *Explanation* 1, the figure "1" shall be omitted;

(*d*) *Explanation* 2 shall be omitted.

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71. In section 194A of the Income-tax Act, with effect from the 1st day of June, 1992,— Amendment of section 194A.

(a) in sub-section (*1*), the proviso shall be omitted ;

(b) sub-section (*2*) shall be omitted ;

(c) in sub-section (*3*), for clauses (vii) and (viia), the following clause shall be substituted, namely :—

10 of 1949. "(*vii*) to such income credited or paid in respect of deposits with a banking company to which the Banking Regulation Act, 1949, applies (including any bank or banking institution referred to in section 51 of that Act), or with a co-operative society engaged in carrying on the business of banking (including a co-operative land mortgage bank or a co-operative land development bank);";

(d) the *Explanation* occurring at the end shall be omitted.

72. In section 194C of the Income-tax Act, in sub-section (*1*), with effect from the 1st day of June, 1992,— Amendment of section 194C.

(a) in clause (*e*), for the word "society,", the words "society; or" shall be substituted ;

(b) after clause (*e*), the following clauses shall be inserted, namely :—

"(*f*) any authority, constituted in India by or under any law, engaged either for the purpose of dealing with and satisfying the need for housing accommodation or for the purpose of planning, development or improvement of cities, towns and villages, or for both; or

21 of 1860. (*g*) any society registered under the Societies Registration Act, 1860 or under any law corresponding to that Act in force in any part of India; or

(*h*) any trust; or

3 of 1956. (*i*) any University established or incorporated by or under a Central, State or Provincial Act and an institution declared to be a University under section 3 of the University Grants Commission Act, 1956".

73. Section 194G of the Income-tax Act shall be renumbered as sub-section (*1*) thereof, and after sub-section (*1*) as so renumbered, the following sub-sections shall be inserted, with effect from the 1st day of June, 1992, namely :— Amendment of section 194G.

"(2) Where the Assessing Officer is satisfied that the total income of any person who is or has been stocking, distributing, purchasing or selling lottery tickets justifies the deduction of income tax at any lower rate or no deduction of income-tax as the case may be, the Assessing Officer shall, on an application made by such person in this behalf, give to him such certificate as may be appropriate.

(3) Where any such certificate is given, the person responsible for paying the income referred to in sub-section (*1*) shall, until such certificate is cancelled by the Assessing Officer, deduct income-tax at the rates specified in such certificate or deduct no tax, as the case may be."

74. In section 194H of the Income-tax Act, in sub-section (*1*) after the words, figures and letters "on or after the 1st day of October, 1991", the words, figures and letters "but before the 1st day of June, 1992" shall be inserted with effect from the 1st day of June, 1992. Amendment of section 194H.

75. After section 196B of the Income-tax Act, the following section shall be inserted, with effect from the 1st day of June, 1992, namely :— Insertion of new section 196C.

Income from foreign currency bonds or shares of Indian company.

"196C. Where any income by way of interest or dividends is payable in respect of bonds or shares referred to in section 115AC to a non-resident, the person responsible for making the payment shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of ten per cent.".

Amendment of section 197.

76. In section 197 of the Income-tax Act, in sub-section, (*1*), for the section beginning with the words "where, in the case of any income of any person other than a company" and ending with the words "the Assessing Officer is satisfied", the following shall be substituted with effect from the 1st day of June, 1992, namely:—

"where, in the case of any income of any person, income-tax is required to be deducted at the time of credit or, as the case may be, at the time of payment at the rates in force under the provisions of sections 192, 193, 194A, 194D, and 195, the Assessing Officer is satisfied".

Amendment of section 197A

77. In section 197A of the Income-tax Act, with effect from the 1st day of June, 1992,—

(*a*) in sub-section (*1*), the words, figures and letter "or section 194A", at both the places where they occur, shall be ommitted;

(*b*) after sub-section (*1*), the following sub-section shall be inserted, namely:—

"(*1A*) Notwithstanding anything contained in section 194A, no deduction of tax shall be made under that section in the case of a person (not being a company or a (firm), if such person furnishes to the person responsible for paying any income of the nature referred to in that section, a declaration in writing in duplicate in the prescirbed form and verified in the prescribed manner to the effect that the tax on his estimated total income of the previous year in which such income is to be included in computing his total income will be nil.";

(*c*) in sub-section (*2*), after the word, brackets and figure "sub-section (*1*)", at both the places where they occur, the words, brackets, figure and letter "or sub-section (*1A*)" shall be inserted.

Amendment of sections 198 to 200, 202 to 203A and 205.

78. In sections 198, 199, 200, 202, 203, 203A and 205 of the Income-tax Act, with effect from the 1st day of June, 1992, for the words, figures and letter "and section 196B", the words, figures and letters, "section 196B and section 196C" shall be substituted.

Amendment of section 206C.

79. In section 206C of the Income-tax Act, with effect from the 1st day of April, 1992,—

(*a*) for sub-section (*1*), the following sub-section shall be substituted, namely:—

"(*1*) Every person being a seller shall, at the time of debiting of the amount payable by the buyer to the account of the buyer or at the time of receipt of such amount from the said buyer in cash or by the issue of cheque or draft or by any other mode, whichever is earlier, collect from the buyer of any goods of the nature specified in column (2) of the Table below, a sum equal to the percentage specified in the corresponding entry in column (3) of the said Table, of such amount as income-tax.

TABLE

S.No. (1)	Nature of goods (2)	Percetage (3)
(i)	Alcoholic liquor for human consumption (other than Indian-made foreign liquor)	Fifteen per cent.
(ii)	Timber obtained under a forest lease	Fifteen per cent.

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1	2	3
(iii)	Timber obtained by any mode other than under a forest lease	Five per cent.
(iv)	Any other forest produce not being timber	Fifteen per cent.

Provided that where the Assessing Officer, on an application made by the buyer gives, a certificate in the prescribed form that to the best of his belief any of the goods referred to in the aforesaid Table are to be utilised for the purposes of manufacturing, processing or producing articles or things and not for trading purposes, the provisions of this sub-section shall not apply so long as the certificate is in force.";

(*b*) after sub-section (*8*), the following *Explanation* shall be inserted, namely:—

'*Explanation*.—For the purposes of this section,—

(*a*) "buyer" means a person who obtains in any sale, by way of auction, tender or any other mode, goods of the nature specified in the Table in sub-section (*1*) or the right to receive any such goods but does not include,

(*i*) a public sector company,

(*ii*) a buyer in the further sale of such goods obtained in pursuance of such sale, or

(*iii*) a buyer where the goods are not obtained by him by way of auction and where the sale price of such goods to be sold by the buyer is fixed by or under any State Act;

(*b*) "seller" means the Central Government, a State Government or any local authority of corporation or authority established by or under a Central, State or Provincial Act, or any company or firm or co-operative society.'.

Amendment of section 211.

80. In section 211 of the Income-tax, Act, in sub-section (*1*), in the Table,—

(*a*) for the word "twenty", the word "thirty" shall be substituted;

(*b*) for the word "fifty", the word "sixty" shall be substituted.

Amendment of section 234C.

81. In section 234C of the Income-tax Act, in sub-secton (1),—

(*a*) for the word "twenty", wherever it occurs, the word "thirty" shall be substituted with effect from the 1st day of June, 1992;

(*b*) for the word "fifty" wherever it occurs the word "sixty" shall be substituted with effect from the 1st day of June, 1992;

(*c*) in the *Explanation*, after the word "paid", the words "or payable" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1989.

Amendment of section 239.

82. In section 239 of the Income-tax Act, in sub-section (*2*), in clause (c), for the words "two years", the words "one year" shall be substituted with effect from the 1st day of April, 1993.

Amendment of section 246.

83. In section 246 of the Income-tax Act, in sub-section (*1*) with effect from the 1st day of April, 1993,—

(*a*) in clause (*g*), the following words, figures and letters shall be inserted at the end, namely:—

"in respect of any assessment for the assessment year commencing on or before the 1st day of April, 1992";

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(b) in clause (h) the following words, figures and letters shall be inserted at the end, namely :—

"in respect of any assessment for the assessment year commencing on or before the 1st day of April, 1992".

Omission of section 247.

84. Section 247 of the Income-tax Act shall be omitted with effect from the 1st day of April, 1993.

Amendment of section 253.

85. In section 253 of the Income-tax Act, in sub-section (6), for the words "a fee of two hundred rupees", the following shall be substituted, with effect from the 1st day of June, 1992, namely :—

"a fee of,—

(a) where the total income of the assessee as computed by the Assessing Officer in the case to which the appeal relates is one lakh rupees or less, two hundred and fifty rupees ;

(b) where the total income of the assessee computed as aforesaid in the case to which the appeal relates is more than one lakh rupees, one thousand and five hundred rupees".

Substitution of new section for section 267.

86. For section 267 of the Income tax Act, the following section shall be substituted, with effect from the 1st day of April, 1993, namely :—

Amendment of assessment of appeal.

"267. Where as a result of an appeal under section 246 or section 253, any change is made in the assessment of a body of individuals or an association of persons or a new assessment of a body of individuals or an association of persons is ordered to be made, the Deputy Commissioner (Appeals) or the Commissioner (Appeals) or the Appellate Tribunal, as the case may be, shall pass an order authorising the Assessing Officer either to amend the assessment made on any member of the body or association or make a fresh assessment on any member of the body or association.".

Amendment of Second Schedule.

87. In the the Second Schedule to the Income-tax Act, after rule 68A, the following rule shall be inserted, with effect from the 1st day of June, 1992, namely:—

Time-limit for sale of attached immovable property

"68B. (1) No sale of immovable property shall be made under this Part after the expiry of three years from the end of the financial year in which the order giving rise to a demand of any tax, interest, fine, penalty or any other sum, for the recovery of which the immovable property has been attached, has become conclusive under the provisions of section 245-I or, as the case may be, final in terms of the provisions of Chapter XX :

Provided that where the immovable property is required to be re-sold due to the amount of highest bid being less than the reserve price or under the circumstances mentioned in rule 57 or rule 58 or where the sale is set aside under rule 61, the aforesaid period of limitation for the sale of the immovable property shall stand extended by one year.

(2) In computing the period of limitation under sub-rule (*1*), the period—

(*i*) during which the levy of the aforesaid tax, interest, fine, penalty or any other sum is stayed by an order or injunction of any court; or

(*ii*) during which the proceedings of attachment or sale of the immovable property are stayed by an order or injunction of any court; or

(*iii*) commencing from the date of the presentation of any appeal against the order passed by the Tax Recovery Officer under this Schedule and ending on the day the appeal is decided,

shall be excluded :

Provided that where immediately after the exclusion of the aforesaid period, the period of limitation for the sale of the immovable property is less than 180 days, such remaining period shall be extended to 180 days and the aforesaid period of limitation shall be deemed to be extended accordingly.

(*3*) Where any immovable property has been attached under this Part before the 1st day of June, 1992, and the order giving rise to a demand of any tax, interest fine, penalty or any other sum, for the recovery of which the immovable property has been attached, has also become conclusive or final before the said date, that date shall be deemed to be the date on which the said order has become conclusive or, as the case may be, final.

(*4*) Where the sale of immovable property is not made in accordance with the provisions of sub-rule (1), the attachment order in relation to the said property shall be deemed to have been vacated on the expiry of the time of limitation specified under this rule.".

Consequential amendments.

88. The following amendments (being amendments of a consequential nature) shall be made in the Income-tax Act,—

(*a*) in section 32, in sub-section (2), the brackets and words "(or, if the assessee is a registered firm or an unregistered firm assessed as a registered firm, in the assessment of its partners)" shall be omitted with effect from the 1st day of April, 1993;

(*b*) in section 139, in sub-section (*1*), in the *Explanation*, in clause (*b*), in sub-clause (i), the words "or in the case of a partner of a firm where the accounts of the firm are required to be so audited" shall be omitted with effect from the 1st day of April, 1993;

(*c*) in section 143, in sub-section (*1*), in clause (c), with effect from the 1st day of April, 1993,—

(*i*) the words " a partner of a firm" shall be omitted;

(*ii*) the word "firm", at both the places where it occurs, shall be omitted.

Wealth-tax.

27 of 1957

Amendment of section 2.

89. In section 2 of the Wealth-tax Act, 1957 (hereinafter referred to as the Wealth-tax Act), with effect from the 1st day of April, 1993,—

(*a*) in clause (*e*), in sub-clause (*2*), in the opening portion, after the words "subsequent assessment year", the words, figures and letters "but" before the 1st day of April, 1993" shall be inserted ;

(*b*) after clause (*e*), the following clause shall be inserted namely:—

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(*ea*) "assets", in relation to the assessment year commencing on the 1st day of April, 1993, or any subsequent assessment year, means—

(*i*) any guest house and any residential house [including a farm house situated within twenty-five kilometers from the local limits of any municipality (whether known as a municipality, municipal corporation, notified area committee, town area committee, town committee or by any other name) or a cantonment board], but does not include—

(*1*) a house meant exclusively for residential purposes and which is allotted by a company to an employee or an officer or a director who is in whole-time employment, having a gross annual salary of less than two lakh rupees ;

(*2*) any house for residential purposes which forms part of stock-in-trade;

(*ii*) motor cars (other than those used by the assessee in the business of running them on hire or as stock-in-trade) ;

(*iii*) jewellery, bullion, and furniture, utensils or any other article made wholly or partly of gold, silver, platinum or any other precious metal or any alloy containing one or more of such precious metals:

Provided that where any of the said assets is used by the assessee as stock-in-trade, such asset shall be deemed as excluded from the assets sdecified in this sub-clause;

(*iv*) yachts, boats and aircrafts (other than those used by the assessee for commercial purposes);

(*v*) urban land;

(*vi*) cash in hand, in excess of fifty thousand rupees, of individuals and Hindu undivided families and in the case of other persons any amount not recorded in the books of account.

Explanation.—For the purposes of this clause.—

(*a*) "jewellery" includes—

(*i*) ornaments made of gold, silver, platinum or any other precious metal or any alloy containing one or more of such precious metals, whether or not containing any precious or semi-precious stones, and whether or not worked or sewn into any wearing apparel;

(*ii*) precious or semi-precious stones, whether or not set in any furniture, utensils or other article or worked or sewn into any wearing apparel;

(*b*) "urban land" means land situate—

(*i*) in any area which is comprised within the jurisdiction of a municipality (whether known as a municipality, municipal corporation, notified area committee,town area committee, town committee, or by any other name) or a cantonment board and which has a population of not less than ten thousand according to the last preceding census of which the relevant figures have been published before the valuation date; or

(*ii*) in any area within such distance, not being more than eight kilometres from the local limits of any municipality or cantonment board referred to in sub-clause (i), as the Central Government may, having regard to the extent of, and scope for, urbanisation of that area and other relevant considerations, specify in this behalf by notification in the *Official Gazette*;':

but does not include land on which construction of a building is not permissible under any law for the time being in force in the area in which such land is situated or the land occupied by any building which has been constructed with the approval of the appropriate authority or any unused land held by the assessee for industrial purposes for a period of two years from the date of its acquisition by him;;

(c) in clause (*m*), for the portion beginning with the words "on the valuation date other than—" and ending with the words, brackets, figures and letter "under sub-section (*1A*) of section 5;", the words "on the valuation date which have been incurred in relation to the said assets; shall be substituted.

90. Section 3 of the Wealth-tax Act shall be renumbered as sub-section (*1*) thereof and, with effect from the 1st day of April, 1993,— Amendment of section 3.

(*a*) in sub-section (*1*) as so renumbered, after the words and figures "first day of April, 1957", the words and figures "but before the first day of April, 1993" shall be inserted;

(*b*) after sub-section (*1*) as so renumbered, the follwing sub-section shall be inserted, namely:—

"(*2*) Subject to the other provisions contained in this Act, there shall be charged for every assessment year commencing on and from the 1st day of April, 1993, wealth-tax in respect of the net wealth on the corresponding valuation date of every individual, Hindu undivided family and company, at the rate of one per cent. of the amount by which the net wealth exceeds fifteen lakh rupees.'.

91. In section 4 of the Wealth-tax Act, with effect from the 1st day of April, 1993,— Amendment of section 4.

(*a*) in sub-section (1),—

(*i*) in clause (*a*),—

(*1*) in sub-clause (*ii*), the words "to whom such assets have been transferred by the individual, directly or indirectly, otherwise than for adequate consideration, shall be omitted;

(*2*) in sub-clause (*iii*), the words "or minor child (not being a married daughter) or both" shall be omitted;

(*3*) in sub-clause (*v*), the words "or the son's minor child", shall be omitted;

(*4*) in sub-clause (*vi*), the words "or the son's minor child" shall be omitted;

(*5*) after the existing proviso, the following provisos shall be inserted, namely:—

"Provided further that nothing contained in sub-clause (*ii*) shall apply in respect of such assets as have been acquired by the minor child out of his income refered to in the proviso to sub-section (*1A*) of section 64 of the Income-tax Act and which are held by him on the valuation date ;

Provided also that where the assets held by a minor child are to be included in computing the net wealth of an individual, such assets shall be included,—

(*a*) where the marriage of his parents subsists, in the net wealth of that parent whose net wealth (excluding the assets of the minor child so includible under this sub-section) is greater; or

(*b*) where the marriage of his parents does not subsist, in the net wealth of that parent who maintains the minor child in the previous year as defined in section 3 of the Income-tax Act, and where any such assets are once included in the net wealth of either parent, any such assets shall not be included in the net wealth of the other parent in any succeeding year unless the Assessing Officer is satisfied, after giving that parent an opportunity of being heard, that it necessary so to do.";

(*ii*) in clause (*b*),—

(*1*) in the opening portion, for the words "interest in the firm", the words "interest in the assets of the firm" shall be substituted;

(*2*) for the proviso, the following proviso shall be substituted, namely:—

"Provided that where a minor is admitted to the benefits of partnership in a firm, the value of the interest of such minor in the firm, determined in the manner specified above, shall be included in the net wealth of the parent of the minor, so far as may be, in accordance with the provisions of the third proviso to clause (*a*).";

(*b*) in sub-section (*1A*), in clause (*c*) and the proviso thereunder, the words "or minor child", wherever they occur, shall be omitted;

(*c*) sub-section (*3*) shall be omitted.

Amendment of section 5.

92. In section 5 of the Wealth-tax Act, with effect from the 1st day of April, 1993,—

(*a*) in sub-section (*1*),—

(*i*) the brackets, figures, words and letter "(*1*) Subject to the provisions of sub-section (*1A*),", occurring in the opening portion, shall be omitted;

(*ii*) clauses (*xiv*) and (*xxxiii*) shall be renumbered as clauses (*iv*) and (*v*) and the existing clauses (*iv*) to (*xiii*), clauses (*xv*) to (*xxxii*) and clause (*xxxiv*) shall be omitted;

(*b*) sub-section (*1A*) to (*4*) shall be omitted.

Amendment of section 7.

93. In section 7 of the Wealth-tax Act, in sub-section (*2*), the proviso shall be omitted with effect from the 1st day of April, 1993.

Amendment of section 21.

94. In section 21 of the Wealth-tax Act, after sub-section (*5*) and the *Explanation* thereunder, the following sub-section shall be inserted, with effect from the 1st day of April, 1993, namely:—

"(6) Nothing contained in this section shall apply to and in relation to any assessment for the assessment year commencing on the 1st day of April, 1993 or any subsequent assessment year.".

Amendment of section 21 A.

95. In section 21A of the Wealth tax Act, with effect from the 1st day of April, 1993,—

(*a*) for the words, brackets and figures "Not withstanding anything contained in clause (*i*) of sub-section (*1*) of section 5, where any property is held", the words "Where any property is held" shall be substituted;

(*b*) the words, brackets and figures "but wothout excluding the value of any asset under sub-section (*1*) of section 5, and at the maximum marginal rate" shall be omitted;

(*c*) the second proviso shall be omitted;

(d) in the third proviso,—

(*i*) for the words "Provided also that", the words "Provided further that" shall be substituted;

(*ii*) in item (*2*), for the words and figures "Part I of Schedule I in the case of an individual" ,the words, brackets and figures "sub-section(*2*) of section 3" shall be substituted;

(*e*) in the *Explanation*, clause (*aa*) shall be omitted.

Amendment of section 21AA.

96. In section 21AA of the Wealth-tax Act, with effect from the 1st day of April, 1993,—

(a) in sub-section (*1*), the words ",and at the maximum marginal rate", occurring at the end, shall be omitted;

(*b*) the *Explanation* shall be omitted.

Amendment of section 35

97. In section 35 of the Wealth-tax Act, in sub-section (*2*), aftet the words, brackets and letter "clause (*m*) of section 2", the words and figures ",as it existed immediately before its amendment by the Finance Act, 1992" shall be inserted with effect from the 1st day of April, 1993.

Insertion of new section 35HA.

98. After sction 35H of the Wealth-tax Act, the following section shall be inserted, with effect from the 1st day of April, 1993, namely:—

Offences by companies.

'35HA. (*1*) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(*2*) Notwithstanding anything contained in sub-section (*1*), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, managar, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) "company" means a body corporate, and includes—

(*i*) a firm; and
(*ii*) an association of persons or a body of individuals whether incorporated or not; and

(*b*) "director" in relation to,—

(*i*) a firm, means a partner in a firm;

(*ii*) any association of persons or a body of individuals, means any member controlling the affairs thereof.'.

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Amendment of Section 45.

99. In section 45 of the Wealth-tax Act, with effect from the 1st day of April, 1993,—

(*a*) clauses (*a*) to (*e*) shall be omitted;

(*b*) for claue (h), the following clause shall be substituted, namely:—

(*h*) any social club;".

Amendment of Schedule I.

100. In Schedule I of the Wealth-tax Act, with effect from the 1st day of April, 1993,—

(*a*) for the brackets, words and figures "(*See* section 3)", the brackets, words and figures "[*See* section 3(1)]" shall be substituted;

(*b*) Part II shall be omitted ;

(*c*) rules, 1, 3, 4 and 5 shall be omitted.

Omission of Schedule II.

101. Schedule II of the Wealth-tax Act shall be omitted with effect from the 1st day of April, 1993.

Amendment of Schedule III.

102. In Schedule III of the Wealth -tax Act, Part C shall be omitted with effect from the 1st April, 1993.

Interest-tax.

Amendment of section 2.

103. In section 2 of the Interest-tax Act, 1974, with effect from the 1st day of April, 1993,— 45 of 1974

(*i*) in clause (5*A*), in sub-clause (*i*), the words "or a co-operative society engaged in carrying on the business of banking not being a co-operative society providing credit facilities to farmers or village artisans" shall be omitted ;

(*ii*) in clause (5*B*),—

(*a*) in sub-clause (*v*), the words "or", occurring at the end, shall be omitted;

(*b*) after sub-clause (*v*), the following sub-clause shall be inserted, namely:—

"(*va*) a residuary non-banking company [other than a financial company referred to in sub-clause (*i*), (*ii*), (*iii*), (*iv*) or (*v*)], that is to say, a company which receives any deposit under any scheme or arrangement, by whatever name called, in one lumpsum or in instalments by way of contributions or subscriptions or by sale of units or certificates or other instruments or in any other manner; or".

Amendment of section 5.

104. In section 5 of the Interest-tax Act, 1974, after the words "advances made to other credit institutions", the words "or to any co-operative society engaged in carrying on the business of banking" shall be inserted with effect from the 1st day of October, 1991. 45 of 1974.

Expenditure-tax.

Amendment of section 3.

105. In the Expenditure-tax Act, 1987 (hereinafter referred to as the Expenditure-tax Act), in section 3, with effect from the 1st day of June, 1992,— 35 of 1987.

(*a*) in clause (1), for the words "four hundred rupees" the words "one thousand two hundred rupees" shall be substituted ;

(*b*) in clause (2), the words, figures and letters "before the 1st day of June, 1992" shall be inserted at the end.

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106. In the Expenditure-tax Act, in section 4, in clause (*b*), after the words, letters and figures "the 1st day of October, 1991", the words, figures and letters "but not after the 31st day of May, 1992" shall be inserted with effect from the 1st day of June, 1992.

Amendment of Section 4.

107. In the Expenditure-tax Act, in section 5, in clause (1), in sub-clause (*i*), the words, figures and letters "before the 1st day of October 1992" shall be inserted at the end with effect from the 1st day of June, 1998.

Amendment of section 5.

108. In the Expenditure-tax Act, in section 7, in sub-section (*2*), after the words and figures "section 3", the words, figures and letters "before the 1st day of June, 1992" shall be inserted with effect from the 1st day of June, 1992.

Amendment of section 7.

CHAPTER IV

INDIRECT TAXES

Customs

109. In the Customs Act, 1962 (hereinafter referred to as the Customs Act),—

Amendment of Act 52 of 1962.

(*1*) in section 2, for clause (8), the following clause shall be substituted, namely:—

'(*8*) "Collector of Customs", except for the purposes of Chapter XV, includes an Additional Collector of Customs;';

(*2*) in section 28,—

(*a*) in sub-section (*1*), in the proviso, the words "for the words "proper officer the words "Collector of Customs", and ' shall be omitted ;

(*b*) in sub-section (*2*), for the words "Assistant Collector of Customs, or the Collector of Customs, as the case may be", the words "proper officer" shall be substituted ;

(3) in section 122, in clause (*b*), for the words "twenty-five thousand", the words "fifty thousand" shall be substituted.

110. In the Customs Tariff Act, 1975 (hereinafter referred to as the Customs Tariff Act),—

Amendment of Act 51 of 1975.

(*a*) after section 8, the following section shall be inserted, namely:—

Emergency power of Central Government to increase import duties.

"8A. (1) Where in respect of any article included in the First Schedule, the Central Government is satisfied that the import duty leviable thereon under section 12 of the Customs Act, 1962 should be increased and that circumstances exist which render it necessary to take immediate action, it may, by notification in the official Gazette direct an amendment of that Schedule to be made so as to provide for an increase in the import duty leviable on such article to such extent as it thinks necessary : 52 of 1962.

Provided that the Central Government shall not issue any notification under this sub-section for substituting the rate of import duty in respect of any article as specified by an earlier notification issued under this sub-section by that Government before such earlier notification has been approved with or without modifications under sub-section (*2*).

(2) The provisions of sub-sections (*3*), and (*4*) of section 7 shall apply to any notification issued under sub-section (*1*) as they apply in relation to any notification increasing duty issued under sub-section (2) of section 7.;";

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(*b*) the First and Second Schedules shall be amended in the manner specified in the Second Schedule.

Auxiliary duties of customs.

111. (1) In the case of goods mentioned in the First Schedule to the Customs Tariff Act, or in that Schedule, as amended from time to time, there shall be levied and collected as an auxiliar duty of customs an amount equal to fifty per cent. of the value of the goods as determined in accordance with the provisions of section 14 of the Customs Act.

(2) Sub-section (*1*) shall cease to have effect after the 31st day of March, 1993, and upon such cesser, section 6 of the General Clauses Act, 1897 shall apply as if the said sub-section had been repealed by a Central Act.

10 of 1897.

(3) The auxilliary duties of customs referred to in sub-section (*1*) shall be in addition to any duties of customs chargeable on such goods under the Customs Act, or any other law for the time being in force.

(4) The provisions of the Customs Act and the rules and regulations made thereunder, including those relating to refunds and exemptions from duties, shall, as far as may be, apply in relation to the levy and collection of the auxiliary duties of customs leviable under this section in respect of any goods as they apply in relations to the levy and collection of the duties of customs on such goods under that Act or those rules and regulations, as the case may be.

Romoval of doubts.

112. For the removal of doubts, it is hereby declared that notwithstanding the amendment made in clause (8) of section 2 of the Customs Act, 1962, by this Act, the provisions of Chapter XV shall continue to apply in so far as they relate to any decision or order passed by an Additional Collector of Customs immediately before the date on which the Finance Bill, 1992 receives the assent of the Presdient.

52 of 1962

Excise

Amendment of Act 1 of 1944.

113. In the Central Excise and Salt Act, 1944 (hereinafter referred to as the Central Excises Act),—

(1) for section 6, the following section shall be substituted, namely:—

Registration of certain persons.

"6. Any prescribed person who is engaged in—

(*a*) the production or manufacture or any process of production or manufacture of any specified goods included in the Schedule to the Central Excise Tariff Act, 1985, or

5 of 1986.

(*b*) the wholesale purchase or sale (whether on his own account or as a broker or commission agent) or the storage of any specified goods included in the Schedule to the Central Excise Tariff Act, 1985,

5 of 1986.

shall get himself registered with the proper officer in such manner as may be prescribed";

(2) section 7 shall be omitted;

(3) in section 9, in sub-section (*1*), for clause (*a*), the following clause shall be substituted, namely.-

‘(*a*) contravenes any of the provisions of section 8 or of a rule made under clause (*iii*) or clause (*xxvii*) of sub-section (*2*) of section 37.";

(4) in section 11A,—

(*a*) in sub-section (*1*), in the proviso, the words "for the words "the Central Excise Officer", the words "Collector of Central Excise", and shall be omitted;

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(*b*) in sub-section (*2*), for the words "Assistant Collector of Central Excise or, as the case may be, the Collector of Central Excise", the words "Central Excise Officer" shall be substituted;

(5) in section 37,—

(*i*) in sub-section (2),—

(*a*) in clause (*iv*), for the word "licensed", the word "registered" shall be substituted;

(*b*) in clause (*ix*), for the words "manufactured under licence", the words "manufactured after registeration" shall be substituted;

(*c*) in clause (*xii*), for the word "licences", the words "registration certificate" shall be substituted;

(*d*) after clause (*xxvi*), the following clause shall be inserted, namely:-

"(*xxvii*) specify the persons who shall get themselves registered under section 6 and the manner of their registration.";

(*ii*) in sub-section (*4*), in clause (*c*), for the word "licence", the words "registration as" shall be substituted.

Amendment of Act 5 of 1986.

114. The Central Excise Tariff Act, 1985 (heeinafter referred to as the Central Excise Tariff Act) shall be amended in the manner specified in the Third Schedule.

Special duties of excise.

115. (*1*) In the case of goods chargeable with a duty of excise under the Central Excises Act, as amended from time to time, read with any notification for the time being in force issued by the Central Government in relation to the duty so chargeable (not being a notification providing for any exemption for giving credit with respect to, or reduction of duty of excise under the said Act on such goods equal to, any duty of excise under the said Act, or the additional duty under section 3 of the Customs Tariff Act, already paid on the raw material or component parts used in the production or manufacture of such goods), there shall be levied and collected a special duty of excise equal to fifteen per cent of the amount so chargeable on such goods.

(*2*) Sub-section (*1*) shall cease to have effect after the 31st day of March, 1993, and upon such ceaser, section 6 of the General Clauses Act, 1897 shall apply as if the said sub-section had been repealed by a Central Act. 0 of 1897.

(*3*) The special duties of excise referred to in sub-section (*1*) shall be in addition to any duties of excise chargeable on such goods under the Central Excises Act or any other law for the time being in force.

(*4*) The provisions of the Central Excises Act and the rules made thereunder, including those relating to refunds and exemptions from duties shall, as far as may be, apply in relation to the levy and collection of the special duties of exercise leviable under this section in respect of any goods as they apply in relation to the levy and collectin of the duties excise on such goods under that Act or those rules, as the case may be.

CHAPTER V

MISCELLANEOUS

Omission fo section 13 of Act 13 of 1960.

116. Section 13 of the Finance Act, 1960 shall be omitted with effect from the 1st day of April, 1993.

Omission of section 40 of Act 11 of 1983.

117. Section 40 of the Finance Act, 1983 shall be omitted with effct from the 1st day of April, 1993.

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THE FIRST SCHEDULE

(*See section* 2)

PART I

INCOME-TAX

Paragrapgh A

Sub-Paragrah I

In the case of every individual or Hindu undivided family or unregisterd firm or other association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to tin sub-clause (*vii*) of clause (31) of section 2 of the Income-tax Act, not being a case to which Sub-Paragraph II of this Paragraph or any other Paragraph of this Part applies,-

Rates of income-tax

(1)	where the total income does not exceed Rs. 22,000	Nil;
(2)	where the total income exceeds Rs. 22,000 but does not exceed Rs.30,000	20 per cent. of the amount by which the total income exceeds Rs. 22,000;
(3)	where the total income exceeds Rs. 30,000 but does not exceed Rs. 50,000	Rs. 1,600 *plus* 30 per cent of the amount by which the total income exceeds Rs. 30,000 ;
(4)	where the total income rxceeds Rs. 50,000 but does not exceed Rs. 1,00,000	Rs. 7,600 *plus* 40 per cent. of the amount by which the total income exceeds Rs. 50,000 ;
(5)	where the total income exceeds Rs. Rs. 1,00,000	Rs. 27,600 *plus* 50 per cent. of the amount by which the total income exceeds Rs. 1,00,000.

Surcharge on income-tax.

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph shall,—

(*i*) in the case of every individual, Hindu undivided family or association of persons of body of individuals referred to in section 88 having a total income exceeding seventy five thousand rupees, be reduced by the amount of rebate of income tax calculated under that section and the income-tax as so reduced ;

(*ii*) in the case of every person, other than those mentioned in item (*l*), having a total income exceeding seventy-five thousand rupees,

be increased by a surcharge for purposes of the Union calculated at the rate of twelve per cent. of such income-tax:

Provided that no such surcharge shall be payable by a non-resident.

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Sub-Paragraph II

In the case of every Hindu undivided family which at any time during the previous year has at least one member whose total income of the previous year relevant to the assessment near commencing on the 1st day of April. 1992 exceeds Rs. 22,000,–

Rates of income-tax

(1)	where the total income does not exceed Rs. 12,000.	Nil.
(2)	where the total income exceeds Rs. Rs. 12,000 but doesnot exceed Rs. 20,000.	25 per cent. of the amount by which the total income exceeds Rs. 12,000;
(3)	where the total income exceeds Rs. 20,000 but does not exceed Rs. 40,000	Rs. 2,000 *plus* 30 per cent. of the amout by which the total income exceeds Rs. 20,000 ;
(4)	where the total income exceeds Rs. 40,000 but does not exceed Rs. 60,000.	Rs. 8,000 *plus* 40 per cent. of the amount by which the total income exceeds Rs. 40,000 ;
(5)	where the toatal income exceeds Rs. 60,000 but does note exceed Rs. 1,00,000	Rs. 16,000 *plus* 50 per cent. of the amount by which the total income exceeds Rs. 60,000 ;
(6)	where the total income exceeds Rs. 1,00,000 ;	Rs. 36,000 *plus* 55 per cent. of the amount by which the total income exceeds Rs. 1,00,000 ;

Surcharge on income-tax.

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph shall, in the case of every person having a total income exceeding seventy-five thousand rupees, be reduced by the amount of rebate of income-tax calculated under section 88 and the income-tax as so reduced be increased by a surcharge for purposes of the Union calculated at the rate of twelve per cent. of such income-tax :

Provided that no such surcharge shall be payable by a non-resident.

Paragraph B

In the case of every co-operative society,—

(1)	where the total income does not exexceed Rs. 10,000	10 per cent. of the total income ;
(2)	where the total income exceeds Rs. 10,000 but does not exceedRs.20,000	Rs. 1,000 *plus* 20 per cent. of the amount by which the total income exceeds Rs. 10,000 ;
(3)	where the total income exceeds Rs. Rs. 20,000.	Rs. 3,000 *plus* 35 per cent. of the amount by which the total income exceeds Rs. 20,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph shall, in the case of every person having a total income exceeding seventy-five thousand rupees, be increased by a surcharge for purpose of the Uunion calculated at the rate of twelve per cent. of such income-tax.

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Paragraph C

Sub-Paragraph I

In the case of every registered firm, not being a case to which Sub-Paragraph II of this Praragraph applies,—

Rates of income-tax

(1)	where the total income does not exceed Rs. 15,000	*Nil* ;
(2)	where the total income exceeds Rs. 15,000 but does not exceed Rs.50,000	6 per cent. of the amount by which the total income exceeds Rs. 15,000;
(3)	where the total income exceeds Rs. 50,000 but does note xceedRs. 1,00,000	Rs. 2,100 plus 12 per cent. of the amount by which the total income exceeds Rs. 50,000;
(4)	where the total income exceeds Rs. 1,00,000	Rs. 8,100 *plus* 18 per dcent. of the amount by which the total income exceeds Rs. 1,00,000.

Surcharge on income-tax.

The amount of income tax computed in accordance with the preceding provisions of this Sub-Pragraph shall, in the case of every person having a total income exceeding seventy-five thousand rupees, be increased by a surcharge for purposes of the Union calculated at the rate of twelve per cent. of such income-tax.

Sub-Paragraph II

In the case of every registered firm whose total income includes income derived from a profession carried on by it and the income so included is not less than fifty-one per cent. of such total income,—

Rates of income-tax

(1)	where the total income does not exceed Rs. 15,000	*Nil* ;
(2)	where the total income exceeds Rs. 15,000 but does not exceed Rs. Rs. 50,000	5 per cent. of the amount by which the total income exceeds Rs. 15,000;
(3)	where the total income exceeds Rs. 50,000 but does not exceed Rs. 1,00,000	Rs. 1,750 *plus* 10 per cent. of the amount by which the total income exceeds Rs. 50,000 ;
(4)	where the total income exceeds Rs. 1,00,000	Rs. 6,750 *plus* 15 per cent. of the amount by which the total income-exceeds Rs. 1,00,000,

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph shall, in the case of every person having a total income exceeding seventy-five thousand rupees, be increased by a surcharge for purposes of the Union calculated at the rate of twelve per cent of such income-tax.

Explanation.—For the purposes of this Paragraph, "registered firm" includes an unregistered firm assessed as a registered firm under clause (*b*) of section 183 of the Income-tax Act.

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Paragraph D

In the case of every local authority,—

Rate of Income-tax

On the whole of the total income	50 per cent.

Surcharge on income-tax

The amount of income-tax computed at the rate hereinbefore specified shall, in the case of every person having a total income exceeding seventy-five thousand rupees, the increased by a surcharge for purposes of the Union calculated at the rate of twelve per cent. of such income-tax.

Paragraph E

In the case of a company,—

Rates of income-tax

I. In the case of a domestic company,—	
(1) where the company is a company in which the public are substantially interested—	45 per cent of the total income;
(2) where the company is not a company in which the public are substantially interested—	50 per cent. of the total income;
II. In the case of a company other than a domestic company,—	
(*i*) on so much of the total income as consist of— (*a*) royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976, or (*b*) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976, and where such agreement has, in either case, been approved by the Central Government.	50 per cent.;
(*ii*) on the balance, if any, of the total income	65 per cent.

Surcharge on income-tax

The amount of income-tax computed in accordance with the provisions of item I of this Paragraph shall, in case of every person having a total income exceeding seventy-five thousand rupees, be increased by a surcharge calculated at the rate of fifteen per cent. of such income-tax.

PART II

RATES FOR DEDUCTION OF TAX AT SOURCE IN CERTAIN CASES

In every case in which under the provisions of sections 193, 194, 194A, 194B, 194BB, 194D and 195 of the Income-tax Act, tax is to be deducted at the rates in force, deduction shall be made from the income subject to deduction at the following rates :—

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	Rate of Income-tax
1. In the case of a person other than a company—	
(a) where the person is resident in India—	
(i) on income by way of interest other than "Interest on securities"	10 per cent.;
(ii) on income by way of winning from lotteries and crossword puzzles	40 per cent.;
(iii) on income by way of winnings from horse races	40 per cent.;
(iv) on income by way of insurance commission	10 per cent.;
(v) On income by way of interest payable on—	
(A) any security, other than a tax-free security, of the Central or a State Government;	
(B) any deventures or other securities for money issued by or on behalf of any local authority or a corporation etablished by a Central, state or Provincial Act;	
(C) any debentures issued by a company where such debentures are listed on a recognised stock exchange in India in accordance with the Securities Contracts (Regulation) Act, 1956 and any rules made thereunder;	
(vi) on any other income (excluding interest payable on a tax-free security)	20 per cent.;
(b) where the person is not resident in India—	
(i) in the case of a non-resident Indian—	
(A) on investment income and long-term capital gains	20 per cent.;
(B) on income by way of interest payable on a tax-free security	15 per cent.;
(C) on income by way of winnings from lotteries and crossword puzzles	40 per cent.;
(D) on income by way of winnings from horse races	40 per cent.;
(E) on the whole of other income	income-tax at 30 per cent. of the amount of income or income-tax in respect of the income at the rates prescribed in Sub-Paragraph I of Paragraph A of Part III of this Schedule, if such income had been the total income, whichever is higher;

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	Rate of income tax
(*ii*) in the case of any other person—	
(*A*) on income by way of interest payable on a tax-free security	15 per cent.;
(*B*) on income by way of winnings from lotteries and crossword puzzles	40 per cent.;
(*C*) on income by way of winnings from horse races	40 per cen;
(*D*) on the whole of the other income	income-tax at 30 per cent. of the amount of income. or income-tax in respect of the income at the rates prescribed in Sub-Paragraph I of Paragraph A of Part III of this Schedule, if such income had been the total income, whichever is higher.
2. In the case of a company—	
(*a*) where the company is a domestic company—	
(*i*) on income by way of interest other than "Interest on securities"	20 per cent;
(*ii*) on income by way of winnings from lotteries and croswords puzzles	40 per cent.:
(*iii*) on income by way of winnings from horse races	40 per cent.;
(*iv*) on any other income (excluding interest payable on tax-free security).	21.5 per cent.
(*b*) where the company is not a domestic company—	
(*i*) on income by way of dividends payable by any domestic company	25 per cent.;
(*ii*) on income by way of winnings from lotteries and crossword puzzles	40 per cent.:
(*iii*) on income by way of winnings from horse races	40 per cent.;
(*iv*) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency	25 per cent;

	Rate of income tax
(*v*) on income by way of royalty payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1976, where such royalty is in consideration for the transfer of all or any rights (including the granting of a licence) in respect of copyright in any book on a subject referred to in the proviso to sub-section (*1A*) of section 115A of the Income-tax Act, to the Indian concern, or in respect of any computer software referred to in the second proviso to sub-section *1*(*A*) of section 115A of the Income-tax Act, to a person resident in India.	30 percent.;
(*vi*) on income by way of royalty [not being royalty of the nature referred to in sub-item (*b*) (v)] payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time beining in force, of the Government of India, the agreement is in accordance with that policy—	
(*A*) where the agreement is made after the 31st day of March, 1961 but before the 1st day of April, 1976	50 per cent.;
(*B*) where the agreement is made after the 31st day of March, 1976	30 per cent.;
(*vii*) on income by way of fees for technical services payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—	
(*A*) where the agreement is made after the 29th day of February, 1964 but before the 1st day of April, 1976.	50 per cent.;
(*B*) where the agreement is made after the 31st day of March, 1976.	30 per cent.;
(*viii*) on income by way of interest payable on a tax-free security.	44 per cent.;
(*ix*) on any other income	65 per cent.;

Explanation.—For the purposes of this Part, "investment income" "long-term capital gains" and "non-resident Indian" shall have the meanings assigned to them in Chapter XII-A of the Income-tax Act.

Surcharge on income-tax

The amount of income-tax deducted in accordance with the provisions of—

(*a*) sub-item (*a*) of item 1 of this Part shall be increased by a surcharge for purposes of the Union calculated at the rate of twelve per cent. of such income-tax, and

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(*b*) sub-item (*a*) of item 2 of this Part shall be increased by a surcharge, calculated at the rate of fifteen per cent. of such income-tax.

PART III

RATES FOR CALCULATING OR CHARGING INCOME-TAX IN CERTAIN CASES, DEDUCTING INCOME-TAX FROM INCOME CHARGEABLE UNDER THE HEAD "SALARIES" AND COMPUTING "ADVANCE TAX."

In cases in which income-tax has to be calculated under the first proviso to sub-section (*5*) of section 132 of the Income-tax Act or charged under sub-section (*4*)of section 172 or sub-section (*2*) of section 174 or section 175 or sub-section (*2*) of section 176 of the said Act or deducted under section 192 of the said Act from income chargeable under the head "Salaries" or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed at the rate or rates in force, such income-tax or, as the case may be, "advance tax" [not being 'advance tax" in respect of any income chargeable to tax under Chapter XII or Chapter XII-A or sub-section (*1A*) of section 161 or section 164 or section 164A or section 167B of the Incomen -tax Act at the rates as specified in that Chapter or section or surcharge on such advance tax" in respect of any income chareable to tax under section 115B], shall be calculated charged, deducted or computed at the following rate or rates :—

Paragraph A

Sub-Paragraph 1

In the case of every individual or Hindu undivided family or other association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (*vii*) of clause (*31*) of section 2 of the Income-tax Act, not being a case to which Sub-Paragraph II of this Paragraph or any other Paragraph of this Part applies,—

Rates of income-tax

(1)	where the total income does not exceed Rs. 28,000.	*Nil;*
(2)	where the total income exceeds Es. 28,000 but does not exceed Rs. 50,000.	20 per cent. of the amount by which the total income exceeds Rs. 28,000;
(3)	where the total income exceeds Rs. 50,000 but does not exceed Rs. 1,00,000.	Rs. 4,400 *plus* 30 per cent. of the amount by which the total income exceeds Rs. 50,000.
(4)	where the total income exceeds Rs. 1,00,000.	Rs. 19,400 *plus* 40 per cent. of the amount by which the total income exceeds Rs. 1,00,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph or section 112 shall,—

(*i*) in the case of every individual, Hindu undivided family or association of persons or body of individuals referred to in sections 88 and 88B having a total income exceeding one hundred thousand rupees, be reduced by the amount of rebate of income-tax calculated under these sections, and the income-tax as so reduceed.

(*ii*) in the case of every person, other than those mentioned in item (*i*) having a total income exceeding one hundred thousand rupees,

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be increased by a surcharge for purposes of the Union calculated at the rate of twelve per cent. of such income-tax :

Provided that no such surcharge shall be payable by a non-resident.

Sub-Pararaph II

In the case of every Hindu undivided family which at any time during the previous year has at least one member whose total income of the previous year relevant to the assessment year commencing on the 1st day of April, 1993 exceeds Rs. 28,000.—

Rates of income-tax

(*1*)	where the total income does not exceed Rs. 18,000	Nil;
(*2*)	where the total income exceeds Rs. 18,000 but does not exceed Rs. 1,00,000	30 per cent. of the amount by which the total income exceeds Rs. 18,000;
(*3*)	where the total income exceeds Rs. 1,00,000	Rs. 24,600 *plus* 40 percent. of the amount by which the total income exceeds Rs. 1,00,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph or section 112 shall, in the case of every person having a total income exceeding one hundred thousand rupees, be reduced by the amount of rebate of income-tax calculated under section 88 and the income-tax as so reduced be increased by a surcharge for purposes of the Union calculated at the rate of twelve per cent. of such income-tax :

Provided that no such surcharge shall be payable by a non-resident.

Paragraph B

In the case of every Co-operative society,—

Rates of income-tax

(*1*)	where the total income does not exceed Rs. 10,000	10 per cent. of the total income;
(*2*)	where the total income exceeds Rs. 10,000 but does not exceed Rs. 20,000	Rs. 1,000 *plus* 20 per cent. of the amount by which the total income exceeds Rs. 10,000;
(*3*)	where the total income exceeds Rs. 20,000	Rs. 3,000 *plus* 35 per cent. of the amount by which the total income exceeds Rs. 20,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph or section 112 shall, in the case of every person having a total income exceeding one hundred thousand rupees, be increasd by a surcharge for purposes of the Union calculated at the rate of twelve per cent. of such income tax.

Paragraph C

In the case of every firm :—

Rate of income--tax

On the whole of the total income	40 per cent.

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Surcharge on income--tax

The amount of income--tax computed at the rate hereinbefore specified or in section 112 shall, in the case of every firm having a total income exceeding one hundred thousand rupees, be increased by a surcharge for purposes of the Union calculated at the rate of twelve per cent. of such income--tax.

Paragraph D

In the case of every local authority :—

Rate of income--tax

On the whole of the total income	30 per cent.

Surcharge on income--tax

The amount of income--tax computed at the rate hereinbefore specified or in section 112 shall, in the case of every person having a total income exceeding one hundred thousand rupees, be increased by a surcharge for purposes of the Union calculated at the rate of twelve per cent. of such income--tax.

Paragraph E

In the case of a company—

Rates of income-tax

I. In the case of a domestic company,—

(1) where the company is a company in which the public are substantially interested	45 per cent. of the total income:
(2) wher the company is not a company in which the public are substantially interested	50 per cent. of the total income

II. In the case of a company other than a domestic company,—

(i) on so much of the total income as consists of—

(*a*) royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976, or

(*b*) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976.

and where such agreement has, in either case, been approved by the Central Government	50 percent.;
(ii) on the balance, if any, of the total income	65 percent.

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Surcharge on income-tax

The amount of income-tax computed in accordance with the provisions of this Paragraph or section 112 shall, in the case of every domestice company having a total income exceeding seventy-five thousnds rupees, be increased by a surcharge, calculated at the rate of fifteen per. cent of such income-tax.

PART IV

[*See* section 2(9)(*d*)]

RULES FOR COMPUTATION OF NET AGRICULURAL INCOME

Rule 1.—Agricultural income of the nature referred to in sub-clause (*A*) of clause (1*A*) of section 2 of the Income-tax Act shall be computed as if it were income chargeable to inome-tax under that Act under the head "Income from other sources" and provisions of sections 57 to 59 of that Act shall so far as may be, apply accordingly:

Provided that sub-section (*2*) of section 58 shall apply subject to the modification that the reference to section 40A therein shall be construed as not including a reference to sub-sections (*3*) and (*4*) of section 40A.

Rule 2. –Agricultural income of the nature referred to in sub-clause (*b*) or sub-clause (*c*) of clause (1*A*) of section 2 of the Income-tax Act [other than income derived from any building required as a dwelling house by the receiver of the rent or revenue or the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (*c*)] shall be computed as if it were income chargeable to income-tax under that Act under the head Profits and gains of business or profession" and the provisions of section 30, 31, 32, 36, 37, 38, 40, 40A [other than sub-sectiions (3) and (4) thereof] 41, 43, 43A, 43B and 43C of the Income-tax Act shall so far as may be, apply accordingly.

Rule 3. –Agricultural income of the nature referred to in sub-clause (*c*) of clause (1*A*) of section 2 of the Income-tax Act, being income derived from any building required as a dwelling house by the receivr of the rent of revenue or the cultivator or the receiver of rent-in-kind referrel to in the said sub-clause (*c*) shall be computed as if it were income chargeable to income-tax under that Act under the head "Income from house property" and the provisions of sections 23 to 27 of that Act shall so far as may be, apply accordingly.

Rules 4. –Notwithstanding anything containd in any other provisions of these rules, in a case where the assessee derives income from sale of tea grown and manufactured by him in India, such income shall be computed in accordance with rule 8 of the Income-tax Rules, 1962, and sixty per cent. of such income shall be regarded as the agricultural income of the assessee.

Rules 5. –Where the assessee is a partner of a registered firm or an unregistered firm assessed as a registered firm under clause (*b*) of section 183 of the Income-tax Act, which in the previous year has any agricultural income or is a partner of an unregistered firm which has not been assessed as a registered firm under clause (*b*) of the said section 183 and which in the previous year has either no income chargeable to tax under the Income-tax Act or has total income not exceeding the maximum amount not chargeable to tax in the case of an unegistered firm but has any agricultural income-then, the agricultural income or loss of the firm shall be computed in accordance with these rules and his share in the agricultural income or loss of the firm shall be computed in the manner laid down in sub-section (*1*), sub-sction (2) and sub-section (*3*) of section 67 of the Income-tax Act and the share so computed shall be regarded as the agricultural income or loss of the assessee:

Provided that nothing contained in this rule shall apply for computing the agricultural income of the assessee in relation to the assessment year commencing on or after the 1st day of April, 1993.

Rule 6.—Where the assessee is a member of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) which in the previous year has either no income chargeable to tax under the Income-tax Act or has total income not exceeding the maximum amount not chargeable to tax in the case of an association of percons or a body of individuals (other than a Hindu undivided family, a company or a firm) but has any agricultural income, then, the agricultural income or loss of the association or body shall be computed in accordance with these rules and the share of the assessee in the agricultural income or loss so computed shall be regarded as the agricultural income or loss of the assessee.

Rule 7.—Where the result of the computation for the previous year in respect of any source of agricultural income is a loss, such loss shall be set off against the income of the assessee, if any, for that previous year from any other source of agricultural income:

Provided that where the assessee is a partner of an unregistered firm which has not been assessed as a registered firm under clause (*b*) of section 183 of the Income-tax Act or is a member of an association of persons or a body of individuals and the share of the assessee in the agricultural income of the firm, association or body as the case may be, is a loss, such loss shall not be set off against any income of the assessee from any other source of agricultural income:

Provided further that nothing contained in this rule shall apply for the computation of the argricultural income of an assessee who is a partner of any firm in relation to the assessment year commencing on or after the 1ts day of April, 1993.

Rule 8.—Any sum payable by the assessee on account of any tax levied by the State Government on the agricultural income shall be deducted in computing the agricultural income.

Rule 9.—(1) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st of day of April, 1992, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or the previous years relevant to the assessment years commencingon the 1st day of April, 1984 or the 1st day of April, 1985 or the 1st day of April, 1986 or the 1st day of April, 1987 or the 1st day of Aprily 1983 or the 1st day of April, 1989 or the 1st day of April, 1990 or the 1st day of April, 1991, is a loss, then, for the purposes of sub-section (*2*) o section 2 of this Act,—

(*i*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1984, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1985 or the 1st day of April, 1986 or the 1st day of April, 1987 or the 1st day of April, 1988 or the 1st day of April, 1989 or the 1st day of April, 1990 or the 1st day of April, 1991.

(*ii*) the loss so computed for the previous year relevant to the assessment year commending on the 1st day of April, 1985, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1986 or the 1st day of April, 1987 or the 1st day of April, 1988 or the 1st day of April, 1989 or the 1st day of April, 1990 or the 1st day of April, 1991.

(*iii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1986, to the extent, if any such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1987 or the 1st day of April, 1988 or the 1st day of April, 1989 or the 1st day of April, 1990 or the 1st day of April, 1991.

(*iv*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1987, to the extent if any, such loss has not been set off aginst the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1988 or the 1st day of April,1989 or the 1st day of April, 1990 or the 1st day of April, 1991.

(*v*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1988, to the extent, if any such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1989 or the 1st day of April, 1990 or the 1st day of April, 1991.

(*vi*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1989, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1990 or the 1st day of April 1991.

(*vii*) the loss so computed for the previous year relevant of the assessment year commencing on the 1st day of April, 1990, to the extent, if any such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1991, and

(*viii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1991,shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 1992.

(2) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 1993 or, if by virute of any provision of the Income-tax Act, income tax is to be charged in respect of the income of a period other than that previous year, in such other period, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment years commencing on the 1st day of April, 1985 or the 1st day of April, 1986 or the 1st day of April, 1987 or the 1st day of April, 1988 or the 1st day of April, 1989 or the 1st day of April, 1990 or the 1st day of April, 1991 or te 1st day of April, 1992, is a loss, than, for the purposes of sub-section (8) of section 2 of this Act,

(*i*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1985, to the extent, if any, such loss has been set off against the agricultral income for the previous year relevant to the assessmen year commencing on the 1st day of April, 1986 lr the 1st day of April, 1987 or the 1st day of April, 1988 or the 1st day of April, 1989 or the 1st day of Apoil, 1990or the 1st day of April, 1991 or the 1st day of April, 1992.

(*ii*) the loss so computed for the previous year relevant to the assesment year commencing on the 1st day of April, 1986, to the extent, if any, such loss has not been set off against the agricultural income for the previout year relevant to the asessment year commencing on the 1st day of April, 1987 or the 1t April, 1988 or the 1st day of April, 1989 or the 1st day of April, 1990 or the 1st day of April, 1991 or the 1st day of April, 1992.

(*iii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1987, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1988 or the 1st day of April, 1989 or the 1st day of April, 1990 or the 1st day of April, 1991 or the 1st day of April, 1992.

(*iv*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1988, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year comencing on the 1st day of April, 1989 or the 1st day of April, 1990 or the 1st day of April, 1991 or the 1st day of April, 1992.

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(*v*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1989, to the extent, if any such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1990 or the 1st day of April, 1991 or the 1st day of April, 1992,

(*vi*) the loss so computed for the, previous year relevant to the assessment year commencing on the 1st day of April, 1990, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1991 or the 1st day of April, 1992,

(*vii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1991, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1992, and

(*viii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1992.

shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 1993.

(3) Where a change has occurred in the constitution of a firm, nothing in sub-rule (*1*) or sub-rule (*2*) shall entitle the firm to set off so much of the loss proportionate to the share of a retired or deceased partner computed in the manner laid down in sub-section (*1*), sub-section (*2*) and sub-section (3) of section 67 of the income-tax Act as exceeds his share of profits, if any, of the previous year in the firm, or entitle any partner to the benefit of ny portion of the said loss (computed in the manner aforesaid) which is not apportionabel to him;

Provided that nothing contained in this sub-rule shall apply for computing the agricultural income in relation to the assessment year commencing on or after the 1st day of April, 1993.

(4) Where any person deriving any agricultural income from any source has been succeeded in such capacity by another person, otherwise than by inheritance, nothing in sub-rule (*1*) or sub-rule (*2*) shall entitled any person, other than the person incurring the loss, to have it set off under sub-rule (*1*) or, as the case may be, sun-rule (*2*),

(5) Notwithstanding anything contained in this rule, no loss which has not been
determined by the Assessing Officer under the provisions of these rules or the rules 21 of 1984
contained in Part IV of the First Schedule to the Finance Act, 1984, or of the First 32 of 1985
Schedule to the Finance Act, 1985, or of the First Schedule to the Finance Act, 1986, 23 of 1986
or of the First Schedule to the Finance Act, 1987, or of the First Schedule to the 11 of 1987
Finance Act, 1988, or of the First Schedule to the Finance Act, 1987, or of the First 26 of 1988
Schedule to the Finance Act, 1990, or of the First Schedule to the Finance (No. 2) 13 of 1989
Act, 1991, shall be set off under sub-rule (*1*) or as the case may be, sub-rule (*2*). 12 of 1990
49 of 1991

Rule 10.—Where the net result of the computation made in accordance with these rules is a loss, the loss so computed shall be ignored and the net agricultural income shall be deemed to be *nil*.

Ruoe 11.—The provisions of the Income-tax Act relating to procedure for assessment (including the provision of section 288A relating to rounding off of income) shall, with the necessary modifications apply in relation to the computation of the net agricultural income of the assessee as they apply in relation to the assessment of the total income.

Rule 12.—For the purpose of computing the net agricultural income of the assessee, the Assessing Officer shall have the same powers as he has under the Income-tax Act for the purpose of assessment of the total income.

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THE SECOND SCHEDULE

[*See* section 110 (*b*)]

PART I

In the First Schedule to the Customs Tariff Act,—

(*1*) in Chapter 1, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted;

(*2*) in Chapter 2, for the entry in column (4) occuring against all the sub-heading Nos., the entry "65%" shall be substituted;

(*3*) in Chapter 4, in sub-heading Nos, 0407.00. 0408.11, 0408.19, 0408.91. 0408.99, 0409.00 and 0410-00 for the entry in colunn (4), the entry "65%" shall be substituted;

(*4*) in Chapter 5, in sub-heading No. 0507.10, for the entries in column (4) and column (5), the entries "65%" and "55%" shall respectively be substituted;

(*5*) in Chapter 7, for the entries in column (4) and column (5) occuring against all the sub-heading Nos., the entries "65%" and "55%" shall respectively be substituted;

(*6*) in Chapter 8,—

(i) for the entries in column (4) and column (5) occuring against all the sub-heading Nos. (except sub-heading Nos, 0802.11, 0802.12.0802.90, 0804,.10, 0806.10 and 0806.20), the entries "'65%" and "55%" shall respectively be substituted;

(*ii*) in sub-heading Nos. 0802.11, 0802.12 and 0806.20, for the entries in column (4) and column (5) occurring against each of them, the entries "65% *plus* Rs. 50 per Kg" and "55%" *plus* Rs. 50 per Kg". shall respectively be substituted;

(*iii*) in sub-heading No. 0802.90, for the entries in column (4) and column (5), the entries "65%" *plus* Rs. 20 per Kg". and "55% *plus* Rs. 20 per kg." shall respectively be substituted;

(*iv*) in sub-heading No. 0804.10, for the entries in column (4) and column (5), the entries "65%" *plus* Rs. 25 per Kg". and "55% *plus* Rs. 25 per Kg." shall respectively be substituted;

(*v*) in sub-heading No. 0806.10, for the entries in column (4) and column (5), the entries, "110%" and "100%" shall respectively be substituted;

(7) in Chapter 9,—

(*i*) in sub-heading Nos. 0901.11, 090.1.2, 0901.21, 0901.22, 0901.30 and 0901.40, for thr entries in column (4) and column (5) occurring against each of them, the entries "65%" and "65% less 13 paise per Kg." shall respectively be substituted;

(*ii*) in sub-heading Nos. 0902.10, 0902.20, 0902.30, 0902.40 and 0903.00, for the entries in column (4) and column (5) occurring against each of them, the entries "65%" and "65% less 26 paise per Kg." shall respectively be substituted;

(*iii*) in sub-heading Nos. 0904.11 and 0904.12, for the entries in column (4) and column (5) occurring against each of them, the entries "65%" and "57.5%" shall respectively be substituted;

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(*iv*) in sub-heading Nos. 0904.20 and 0905.00, for the entry in column (4), the entry "65%" shall be substituted;

(*v*) in sub-heading Nos., 0906.10, 0906.20, for the entries in column (4) and column (5) occurring against each of them, the entries, "65%" *plus* Rs. 50 per Kg." and "57.5% *plus* Rs. 50 per Kg." shall respectively be substituted;

(*vi*) in sub-heading No. 0907.00 for the entries in column (4) and column (5), the entries "65%" plus Rs. 75 per kg.", and "57.5% *plus* Rs. 75 per Kg." shall respectively be substituted;

(*vii*) in sub-heading No. 0908.10 for the entries in column (4) and column (5), the entries "65%" and "57.5%" shall respectively be substituted;

(*viii*) in sub-heading No. 0908.20, for the entry in column (4), the entry "65%" shall be substituted;

(*ix*) in sub-heading No. 0908.30 for the entries in column (4), and column (5), the entries "65%" and "57.5%" shall respectively be substituted;

(x) in sub-heading Nos. 0909.10, 0909.20, 0909.30, 0909.40 0909.50 0910.10, 0910.20, 0910.30, 0910.40, 0910.50, 0910.91 and 0910.99, for the entry in column (4), the entry "6511" shall be substituted;

(*8*) in Chapter 11, in sub-heading Nos, 1101.00, 1103.11, 1103.12, 1103.13, 1103.14, 1103.19, 1103.21, 1103.29, 1104.11, 1104.12, 1104.19, 1104.21, 1104.22, 1104.23, 1104.29, 1104.30, 1107.10 and 1107.20 for the entry in column (4), the entry "65%" shall be substituted;

(*9*) in Chapter 12,—

(*i*) in sub-heading No. 1207.10 for the entries in column (4) and column (5), the entries "65%" and "55%" shall respectively be substituted;

(*ii*) in sub-heading Nos. 1210.10, 1210.20, 1211.10, 1211.20, 1211.90, 1212.10, 1212.20, 1212.30., 1212.91., 1212.92 and 1212.99, for the entry in column (4), the entry "65%" shall be substituted;

(*10*) in Chapter 15,—

(*i*) in sub-heading Nos. 1501.00, 1502.00, 1503.00 1504.10. 1504.20, 1504.30, 1505.10, 1505.90 and 1506.00, for the entry in column (4), the entry "65%" shall be substituted;

(*ii*) in sub-heading Nos. 1507.10. 1507.90, 1508.10, 1508.90, 1509.10. 1509.90 1510.00, 1511.10, 1511.90, 1512.11, 1512.19. 1512.21, 1512.29, 1513.11, 1513.19, 1513.21, 1513.29, 1514.10, 1514.90, 1515.11, 1515.19, 1515.21, 1515.29, 1515.30 1515.40, 1515.50, 1515.60 and 1515.90, for the entries in column (4) and column (5) occurring against each of them, the entries "65%" and "55%" shall respectively be substituted;

(*iii*) in sub-heading Nos. 1516.10, 1516.20. 1517.10, 1517.90, 1518,00, 1519.11, 1519.12. 1519.13, 1519.19, 1519.20, 1520.10, 1520.90 1521.10, 1521.90, and 1522.00, for the entry in column (4), the entry "65%" shall be substituted;

(*11*) in Chapter 16, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted.

(*12*) in Chapter 17, for the entry in column (4) occurring against all the sub-heading Nos. (Except sub-heading Nos. 1701.11, 1701.12 and 1701.99), the entry "65%" shall be substituted;

(*13*) in Chapter 18, for the entry in column (4) occurring against all the sub-heading Nos, the entry "65%" shall be substituted;

(*14*) in Chapter 19, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted;

(*15*) in Chapter 20, for the entry in column (4) occurring against all the sub-heading Nos.. the entry "65%" shall be substituted;

(*16*) in Chapter 21, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted;

(*17*) in Chapter 22, in sub-heading Nos. 2201.10, 2201.90, 2202.10 and 2202,90, for the entry in column (4) the entry "65%" shall be substituted;

(*18*) in Chapter 24, in sub-heading Nos. 2402.10, 2402.20, 2402.90, 2403.10, 2403.91 and 2403.99, for the entry in column (4), the entry "65%" shall be substituted;

(*19*) in Chapter 25,—

(*i*) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 2504.10, 2504.90 and 2527.00), the entry "65%" shall be substituted;

(*ii*) in sub-heading Nos. 2504.10 and 2504.90, for the entries in column (4) and column (5) occurring against each of them the entries "65%" and "55%" shall be respectively be substituted;

(*20*) in Chapter 26, in sub-heading Nos. 2618.00, 2619.00, 2620.11, 2620.19, 2620.20, 2620.30 2620.40, 2620.50, 2620.90 and 2621.00, for the entry in column (4), the entry "65%" shall be substituted;

(*21*) in Chapter 27, in sub-heading Nos. 2712.20 and 2712.90, for the entry in column (4), the entry "65%" shall be substituted;

(*22*) in Chapter 28, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted;

(*23*) in Chapter 29,—

(*i*) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 2917.37, 2933.71, 2936.10, 2936.21, 2936.22,2936.23, 2936.24, 2936,25, 2936.26, 2936.27, 2936.28, 2936.29, 2936.90,2937.10, 2937.21, 2937.22, 2937,29, 2937.91 2937.92, 2937.99, 2939.40, 2939.50, 2941.10, 2941.20, 2941.30, 2941.40, 2941.50 and 2941.90), the entry "65%" shall be substituted;

(*ii*) in sub-heading Nos. 2917.37, 2933.71, 2937.10, 2937.21, 2937.22, 2937,29, 2937.91, 2937.92, 2937.99, 2939.40 and 2939.50, for the entries in column (4) and column (5) occurring against each of them , the entries "65%" and "55%" shall respectively be substituted;

(*iii*) in sub-heading Nos. 2936.10, 2936.21, 2936.22, 2936.23, 2936.24, 2936.25, 2936,26, 2936.27, 2936.28, 2936.29, 2936.90, 2941.10, 2941.20, 2941.30, 2941.40, 2941.50 and 2941.90, for the entries in column (4) and column (5) occurring against each of them, the entries "65%" and "59%" shall respectively be substituted;

(*24*) in Chapter 30,—

(*i*) in sub-heading Nos. 3001.10, 3001.20, 3001.90, 3002,10, 3002,20, 3002,31, 3002,39, 3002.90, 3003.10, 3003,20 3003,31, 3003.39, 3003,40, 3003.90,3004.10, 3004.20, 3004.31 3004.32, 3004.39, 3004.40, 3004.50 and 3004.90, for the entries in column (4) and column(5) occurring against each of them, the entries "65%" and "55%" shall respectively be substituted;

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(*ii*) in sub-heading Nos. 3005.10, 3005.90, 3006.10, 3006.20, 3006.30, 3006.40, 3006.50 and 3006.60, for the entry in column (4), the entry "65%" shall be substituted.

(*25*) in Chapter 32,—

(*i*) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading No. 3201.90), the entry "65%" shall be substituted;

(*ii*) in sub-heading No. 3201.90, for the entries in column (4) and column (5), the entries "65" and "55%" shall respectively be substituted;

(*26*) in Chapter 33, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted;

(*27*) in Chapter 34,—

(*i*) in sub-heading Nos. 3401.11, 3401.19, 3401.20, 3402,20, 3402,90, 3403.11, 3403.19, 3403.91, 3403.99, 3404.10, 3404.20, 3404.90, 3405.10, 3405.20, 3405.30, 3405.40, 3406.90, 3406.00, and 3407.00, for the entry in column (4), the entry "65%" shall be substituted;

(*ii*) in sub-heading Nos. 3402.11, 3402.12, 3402.13, and 3402.19 for the entries in column (4) and column (5) occurring again each of them, the entries '65%and "55%" shall respectivley be substituted;

(*28*) in Chapter 35, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted;

(*29*) in Chapter 36, for the entry in column (4) occurring against all the sub-heading Nos. the entry "65%" shall be substituted;

(*30*) in Chapter 37, for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading 3701.10, 3702.10, 3706.10 and 3706.90), the entry "65%" shall be substituted;

(*31*) in Chapter 38,—

(*i*) for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 3801.10, 3802.10, 3812.10, 3815.11 and 3815.12), the entry "65%" shall be substituted;

(*ii*) in sub-heading Nos. 3801.10, 3802.10, 3812.10, 3815.11, and 3815.12, for the entries in column (4) and column (5) occurring against each of them the entires "65% and "55%" shall respectively be substituted;

(*32*) in Chapter 39, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted;

(*33*) in Chapter 40, for the entry in column (4) occurring against all the sub-heading Nos., (except sub-heading Nos, 4001.21, 4001.22, 4003.00, 4004.00, 4010.10, 4010,91 and 4010.99), the entry "65%" shall be substituted;

(*34*) in Chapter 42, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted;

(*35*) in Chapter 43, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted;

(*36*) in Chapter 44, in sub-heading Nos. 4411.11, 4411.19, 4411.21, 4411.29, 4411.31, 4411.39, 4411.91 and 4411.99, for the entry in column (4), the entry "65%" shall be substituted;

(*37*) in Chapter 47, in sub-heading Nos. 4707.10, 4707.20, 4707.30 and 4707.90, for the entry in column (4), the entry "65%" shall be substituted;

(*38*) in Chapter 48, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted;

(*39*) in Chapter 49, in sub-heading Nos., 4907.00,4908.10,4908.90,4909.00 4910.00 4911.91 and 4911.99, for the entry in column (4), the entry "65%" shall be substituted;

(*40*) in Chapter 50, in sub-heading Nos, 5006.00, 5007.10, 5007.20 and 5007.90, for the entry in column (4), the entry "65%" shall be substituted;

(*41*) in Chapter 51, in sub-heading Nos, 5101.11, 5101.19, 5101.21, 5101.29, 5101.30 5105.21, 5105.29, 5111.11, 5111.19, 5111.20, 5111.30, 5111.90, 5112.11, 5112.19, 5112.20, 5112.30, 5112.90 and 5113.00 for the entry in column (4), the entry "65%" shall be substituted;

(*42*) In Chapter 52, in sub-heading Nos. 5208.11, 5208.12, 5208.13, 5208.19, 5208.21, 5208.22, 5208.23, 5208.29, 5208.31, 5208.32, 5208.33, 5208.39, 5208.41, 5208.42 5208.43, 5208.49, 5208.51, 5208.52, 5208.53, 5208.59, 5209.11,5209.12, 5209.19, 5209.21, 5209.22, 5209.29, 5209.31, 5209.32, 5209.39, 5209.41, 5209.42, 5209.43, 5209.49, 5209.51, 5209.52, 5209.59, 5210.11, 5210.12, 5210.19, 5210.21, 5210.22, 5210.29, 5210.31, 5210.32, 5210.39, 5210.41, 5210.42, 5210.49, 5210.51, 5210.52, 5210.59, 5211.11, 5211.12, 5211.19, 5211.21, 5211.22, 5211.29, 5211.31, 5211.32, 5211.39, 5211.41, 5211.42, 5211.43, 5211.49, 5211.51, 5211.52, 5211.59, 5212.11, 5212.12, 5212.13, 5212.14, 5212.15, 5212.21, 5212.22, 5212.23, 5212.24 and 5212.25, for the entry in column (4), the entry "65%" shall be substituted,

(*43*) in Chapter 653, in sub-heading Nos. 5309.11 5309.19, 5309.21, 5309.29, 5310.10 5310.90, and 5311.00, for the entry in column (4). the entry "65%" shall be substituted;

(*44*) in Chapter 54, for the entry in column (4) occurring against all the sub-heading Nos., the enttry "65%" shall be substituted;

(*45*) in Chapter 55, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted;

(*46*) in Chapter 56, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted;

(*47*) in Chapter 57, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted;

(*48*) in Chapter 58, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted;

(*49*) in Chapter 59, in sub-heading Nos., 5901.10, 5901.90, 5902.10, 5902.20, 5902.90, 5903.10, 5903.20, 5903.90, 5904.10, 5904.91, 5904.92, 5905.00, 5906.10, 5906.91, 5906.99, 5907.00, 5908.00 and 5909.00, for the entry in column (4), the entry "65%" shall be substituted;

(*50*) in Chapter 60, for the entry in column (4), occurring against all the sub-heading Nos., the entyry "65%" shall be substituted;

(*51*) in chapter 61 for the entry in column (4) occurring against all the sub-heading Nos. the entry "65%" shall be substituted;

(52) in Chapter 62, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted;

(53) in Chapter 63, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted;

(54) in Chapter 64, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted;

(55) in Chapter 65, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted;

(56) in Chapter 66, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted;

(57) in Chapter 67, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted;

(58) in Chapter 68, for the entry in column (4) occurring against all the sub-heading Nos., (except sub-heading Nos. 6804.10, 6804.21, 6804.22, and 6804.23), the entry "65%" shall be substituted;

(59) in Chapter 69, in sub-heading Nos. 6904.10, 6904.90, 6905.10, 6905.90, 6906.00, 6907.10, 6907.90, 6908.10, 6908.90, 6909.11, 6909.19,6909.90, 6910.10, 6910.90, 6911.10, 6911.90, 6912.00 6913.10, 6913.90, 6914.10 and 6914.90 for the entry in column (4), the entry "65%" shall be substituted;

(60) in Chapter 70 for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 7010.10, 7015.10, 7017.10, 7017.90, 7019.10, 7019.20, 7019.31, 7019.32, 7019.39 and 7019.90 the entry "65%" shall be substituted;

(61) in Chapter 71 in sub-heading Nos. 7106.10, 7106.91, 7106.92, 7107.00, 7108.11, 7108.12, 7108.13, 7108.20, 7109.00, 7111.00, 7112.10, 7112.20, 7112.90, 7113.11, 7113.19, 7113.20, 7114.11, 7114.19, 7114.20, 7115.10, 7115.90, 7116.10, 7116.20, 7117.11. 7117.19, 7117.90, 7118.10 and 7118.90, for the entry in column (4), shall entry "65%" shall be substituted;

(62) in Chapter 72.—

(i) in sub-heading Nos. 7203.10 7203.90 7204.10, 7204.21, 7204.29, 7204.30, 7204.41 7204.49, 7204.50, 7205.10, 7205.21, 7205.29, 7206.10, 7206.90 7207.11, 7207.12, 7207.19, 7207.20, 7208.11, 7208.12, 7208.13, 7208.14, 7208.21, 7208.22, 7208.23, 7208.24, 7208.31, 7208.32, 7208.33, 7208.34, 7208.35, 7208.41, 7208.42, 7208.43, 7208.44, 7208.45, 7208.90, 7209.11, 7209.12, 7209.13, 7209.14, 7209.21, 7209.22, 7209.23, 7209.24, 7209.31, 7209.32. 7209.33, 7209.34, 7209.41, 7209.42, 7209.43, 7209.44, 7209.90, 7210.11, 7210.12, 7210.20, 7210.31, 7210.39, 7210.41, 7210.49, 7210.50, 7210.60, 7210.70, 7210.90, 7211.11, 7211.12, 7211.19, 7211.21, 7211.22 7211.29, 7211.30, 7211.41 7211.49, 7211.90, 7212.10, 7212.21, 7212.29, 7212.30, 7212.40, 7212.50, 7212.60, 7213.10, 7213.20, 7213.31, 7213.39 7213.41, 7213.49, 7213.50, 7214.10, 7214.20, 7214.30, 7214.40, 7214.50, 7214.60, 7215.10, 7215.20, 7215.30, 7215.40, 7215.90, 7216.10, 7216.21, 7216.22, 7216.31, 7216.32, 7216.33, 7216.40, 7216.50, 7216.60, 7216.90, 7217.11, 7217.12, 7217.13, 7217.19, 7217.21, 7217.22, 7217.23, 7217.29, 7217.31, 7217.32, 7217.33, 7217.39, 7218.10 and 7218.90, for the entry in column (4), the entry "65%" shall be substituted;

(*ii*) in sub-heading Nos. 7219.11, 7219.12, 7219.13, 7319.14, 7219.21, 7219.22, 7219.23, 7219.24, 7219.31, 7219.32, 7219.33, 7219.34, 7319.35, 7219.90, 7220.11, 7220.12, 7220.20 and 7220.90 for the entry in column (4), the entry "100%" shall be substituted;

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(*iii*) in sub-heading Nos. 7221.00, 7222.10, 7222.20, 7222.30, 7222.40, 7223.00, 7224.10, 7224.90, 7225.10, 7225.20, 7225.30, 7225.40, 7225.50, 7225.90, 7226.10, 7226.20, 7226.91, 7226.92, 7226.99, 7227.10, 7227.20, 7227.90, 7228.10, 7228.20, 7228.30, 7228.40, 7228.50, 7228.60, 728.70, 7228.80, 7229.10, 7229.20 and 7229.90 for the entry in column (4), the entry "65%" shall be substituted:

(63) in Chapter 73, for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 7311.00 and 7316.00), the entry "65%" shall be substituted;

(64) in Chapter 74, for the entry in column (4) occurring against all the sub-heading Nos, the entry "65%" shall be sibstituted;

(65) in Chapter 75, in sub-heading No. 7505.22, for the entry in column (4), the entry "65%" shall be substituted;

(66) in Chapter 76, for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 7601.10, 7601.20 and 7602.00), the entry "65%" shall be substituted;

(67) in Chapter 78, for the entry in column (4) occurring against all the sub-heading Nos, the entry "65%" shal be substituted;

(68) in Chapter 79, for the entry in column (4) occurring against all the sub-heading Nos, the entry "65%" shall be substituted;

(69) in Chapter 82, in sub-heading Nos, 8201.50, 8210.00, 8211.10, 8211.91, 8211.92, 8211.93, 8211.94, 8212.10, 8212.20, 8212.90, 8213.00, 8214.10, 8214.20, 8214.90, 8215.10. 8215.20, 8215.91 and 8215.99, for the entry in column (4), the entry "65%" shall be sibstituted;

(70) in Chapter 83, for the entry in column (4) oclurring against all the sub-heading Nos, (except sub-heading Nos. 8311.10, 8311.20, 8211.30 and 8311.90), the entry "65%" shall be substituted;

(71) in Chapter 84,—

(*i*) in sub-heading Nos. 8403.10, 8403.90, 8404.10, 8404.90, 8407.10, 8407.21, 8407.29, 8407.31, 8407.32, 8407.33, 8407.34, 8407.90, 8408.10, 8408.20, 8408.90, 8409.10, 8409.91, 8409.99, 8412.80, 8413.11, 8413.19, 8413.20, 8413.30, 8413.91, 8414.30, 8414.51, 8414.59, 8414.60, 8414.80, 8414.90, 8415.10, 8415.81, 8415.82, 8415.83, 8415.90, 8418.10, 8418.21, 8418.22, 8418.29, 8418.30, 8418.40, 8418.50, 8418.61, 8418.69, 8418.91, 8418.99, 8419.11, 8419.19, 8419.50, 8419.60, 8419.81, 8419.89, 8421.23, 8421.29, 8421.31, 8421.39, 8421.99, 8422.11, 8422.19, 8422.20, 8422.30, 8422.40, 8423.10, 8423.20, 8423.30, 8423.81, 8423.82, 8423.89, 8424.10, 8424.20, 8426.12, 8426.41, 8427.90, 8431.20, 8432.80, 8435.10, 8438.10, 8438.20, 8438.40, 8438.50, 8438.60, 8438.80, 8441.10, 8441.90, 8447.11, 8447.12, 8447.20, 8447.90, 8448.19, 8450.11, 8450.12, 8450.19, 8450.20, 8451.10, 8451.21, 8451.29, 8451.30, 8451.40, 8451.80, 8452.10 and 8452.90, for the entry in column (4), the entry "65%" hall be substituted;

(*ii*) in sub-heading Nos. 8456.10, 8456.20, 8456.30, 8456.90, 8457.10, 8457.20, 8457.30 8458.11, 8458.19, 8458.91, 8458.99, 8459.10, 8459.21, 8459.29. 8459.31, 8459.39. 8459.40, 8459.51, 8459.59, 8459.61, 8459.69, 8459.70, 8460.11, 8460.19, 8460.21, 8460.29, 8460.31, 8460.39, 8460.40, 8460.90, 8461.10, 8461.20, 8461.30, 8461.40, 8461.50, 8461.90. 8462.10, 8462.21, 8462.29, 8462.31, 8462.39, 8462.41, 8462.49, 8462.91, 8462.99, 8463.10, 8463.20, 8463,30 8463.90. 8464.10, 8464.20 8464.90, 8465.10, 8465.91, 8465.92, 8465.93, 8465.94, 8565.95, 8465.96, and 8465.99, for the entry in column (4) the entry 110%" shall be substituted.

(*iii*) in sub-heading Nos. 8468.10, 8468.20, 8468.80, 8469.10, 8469.21, 8469.29, 8469.31 8469.39, 8470.10, 8470.21, 8470.29, 8470.30, 8470.40, 8470.50, 8470.90, 8471.10, 8471.20, 8471.91, 8471.92, 8471.93, 8471.99, 8472.10, 8472.20, 8472.30, 8472.90, 8473.10 8473.21, 8473.29, 8473.30, 8473.40, 8476.11, 8476.19, 8479.81, 8479.82, 8479.89, 8483.20, 8483.30, and 8483.90 for the centry in column (4), the entry "65%" shall be substitued;

(*iv*) in sub-heading Nos. 8482.10, 8482.20, 8482.30, 8482.40, 8482.50 and 8482.80 for the entry in column (4), the entry "110%" plus Rs. 300. per fearing" shall be substituted.;

(*v*) in sub-heading Nos. 8482.91 and 8482.99, for the entry in column (4), the entry 110 plus Rs. 300 per piece shall be substituted;

(72) in Chapter 85, in sub-heading Nos. 8501.10, 8501.20, 8501,31, 8501,32, 7501,40. 8501.51, 8501.52, 8503.00, 8504.10, 8504.21, 8504.31, 8504.32, 8504.50, 8504.90, 8505.11, 8505.19, 8506.11, 8506.12, 8506.13, 8506.19, 8506.20, 8506.90, 8507.10, 8507.20, 8507.30, 8507.40, 8507.80, 8507.90, 8508.10, 8508.20, 8508.80, 8509.10, 8509.20, 8509.30, 8509.40, 8509.80, 8510.10, 8510.20, 8511.10, 8511.20, 8511.30. 8511.40, 8511.50, 8511.80, 8511.90, 8512.10, 8512.20, 8512.30, 8512,40, 8512.90. 8513.10, 8513.90, 8515.11, 8515.19, 8516.10, 8516.21, 8516.29, 8516.31, 8516.32, 8516.33, 8516.40, 8516.50, 8516.60, 8516.71, 8516.72, 8516.79, 8516.80, 8517.10, 8517,20, 8517.30. 8517.40, 8517.81, 8517.82, 8517.90, 8518.10, 8518,21, 8518.22, 8518.29, 8518.30, 8518.40, 8518.50, 8518.90, 8519.10, 8519.21, 8519.29, 8519,31, 8519.39, 8519.40, 8519.91, 8519,99, 8520.10, 8520.20, 8520.31, 8520.39, 8520.90, 8521.10, 8521.90, 8522.10, 8522.90, 8523.11, 8523.12, 8523.13, 8523.20, 8523.90, 8524.10, 8524.21, 8524.22, 8524.23, 8524.90, 8525.10, 8525.20, 8525.30, 8526.10 8526.91, 8526.92, 8527.11, 8527.19, 8527.21, 8527.29, 8527.31, 8527.32, 8527.39, 8527.90 8528.10, 8528.20, 8529.10,8529.90, 8530.10, 8530.80, 8530.90, 8531.10, 8531.20. 8531.80, 8531.90, 8532.10, 8532.21, 8532.22, 8532.23. 8532.24, 8532.25, 8532.29, 8532.30, 8532.90, 8533.10, 8533.21, 8533.29, 8533.31, 8533.39, 8533.40, 8533.90, 8534.00, 8536.10, 8536.20, 8536.30, 8536.41, 8536.49, 8536.50, 8536.61, 8536.69, 8536.90, 853.7.10, 8538.10, 8538.90, 8539.10, 8539.21, 8539.22, 8539.29, 8539.31, 8539.39, 8539.40, 8539.90, 8540.11, 8540.12, 8540.20, 8540.30, 8540.41, 8540.42, 8540.49, 8540.81, 8540.89, 8540.91, 8540.99, 8541.10, 8541.21, 8541.29, 8541.30, 8541.40, 8541.50, 8541.60, 8541.90, 8542.11, 8542.19, 8542.20, 8542.80, 8542.90, 8543.10, 8543.20, 8543.30, 8543.80, 8543.90, 8544.11, 8544.19, 8544.20, 8544.30, 8544.41, 8544.49, 8544.51, 8544.59, 8544.60, 8544.70, 8545.19, 8545.20, 8590.90, 8546.10, 8546.20, 8546.90, 8547.10, 8547.20, 8547.90 and 8548.00 for the entry in column (4), the entry '65%" shall be substituted;

(73) in Chapter 87 in sub-heading Nos. 8703.10, 8703.21, 7803.22, 8703.23, 8703.24, 8703.31, 7803.32, 8703.33, 8703.90, 8706.00, 8707.10, 8707.90, 8708.10, 8708.21, 8708.29, 8708.31, 8708.39, 8708.40, 8708.50, 8708.60, 8708.70, 8708.80, 8708.91, 8708.92, 8708.93, 8708.94, 8708.99, 8711.10, 8711.20, 8711.30, 8711.40, 8711.50, 8711.90, 8712.00, 8714.11, 8714.19, 8714.91, 8714.92, 8714.93, 8714.94, 8714.95, 8714.96, 8714.99, 8715.00, 8716.10, 8716.20, 8716.31, 8716.39, 8716.40, 8716.80, and 8716.90 for the entry in column (4), the entry '65%" shall be substituted;

(74) in Chapter 90, in sub-heading Nos. 9001. 10, 9002. 11, 9003. 11, 9003, 19, 9003. 90, 9004. 10, 9004. 90, 9006. 10, 9006. 20, 9006. 30, 9006. 40, 9006. 51, 9006. 52, 9006. 53, 9006. 59, 9006. 61, 9006. 62, 9006. 69, 9006. 91, 9006. 99, 9007. 21, 9007. 29, 9007. 92, 9008. 10, 9008. 20, 9008. 9008. 40, 9008. 90, 9009. 11, 9009. 12, 9009. 21, 9009. 22, 9009. 30, 9009. 90, 9010. 30, 9010. 10, 20, 9010. 30, 9010. 90, 9013. 10, 9013. 20, 9013. 80, 9013. 90, 9014. 90, 9015. 90, 9017. 90, 9018. 49, 9024. 90, 9025. 90, 9026. 90, 9027. 40, 9027. 90, 9028. 90,-9029. 90, 9031. 90, 9032. 90, and 9033. 00, for the entry in column (4), the entry "65%" shall be substituted;

(75) in Chapter 91, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65"% shall be substituted;

(76) in Chapter 92, for the entry in column (4) occurring against all the sub-heading Nos. the entry "65%" shall be substituted;

(77) in Chapter 93, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted;

(78) in Chapter 94, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted;

(79) in Chapter 95, for the entry in column (4) occurring against all the sub-heading Nso. the entry "65%" shall be substituted;

(80) in Chapter 96, for the entry in column (4) occurring against all the sub-heading Nos., the entry "65%" shall be substituted;

(81) in Chapter 97, in sub-heading Nos. 9701.10, 9701, 90, 9702.00, 9703, 00 and 9706.00, for the entry in column (4), the entry "65%"; shall be substituted;

(82) in Chapter 98, in sub-heading Nos. 9802.00, 9804.90 and 9805.90 for the entry in column (4), the entry "65%" shall be substituted.

PART II

Heading No.	Description of articles	Rate of duty
(1)	(2)	(3)

In the Second Schedule to the Customs Tariff Act,—

(i) for heading No. 11 and the entries relating thereto, the following heading No. and entries shall be substituted, namely:—

"11.	Iron ore, all sorts	10% *plus* Rs. 50 per tonne";

(ii) after heading No. 25 and the entries relating thereto, the following heading No. and entries shall be inserted, namely:—

"26.	Granite (including black granite), porphyry and basat, all sorts).	15%".

THE THIRD SCHEDULE

(*See* section 114)

PART I

In the Schedule to the Central Excise Tariff Act,—

(1) in Cnapter 18, in sub-heading Nos. 1801,00, 1802.00, 1803.00 and 1804.00, for the entry in column (4), the entry "25%"; shall be substituted;

(2) in Chapter 21, in sub-heading Nos. 2107.91 and 2107.99, for the entry column (4), the entry "50%'" shall be substituted;

(3) in Chapter 22, in sub-heading Nos, 2201.11, 2201.12, 2202.11, 2202.12, 2202.13 and 2202.14, in cloumn (3), the words "glass" shall be omitted;

(4) in Chapter 24, in sub-heading Nos. 2403.11, 2403.12, 2403.21 and 2403.22, in column (4) occurring against all the sub-headings, for the word and figures "Rs. 500", the word and figures "Rs. 600" shall be substituted;

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(5) in Chapter 25, in heading No. 25.01, for the entry in column (3), the following entry shall be substituted, namely:—

"SALT (INCLUDING TABLE SALT AND DENATURED SALT) AND PURE SODIUM CHLORIDE, WHETHER OR NOT IN AQUEOUS SOLUTION OR CONTAINING ADDED ANTI-CAKING OR FREE FLOWING AGENTS";

(6) in Chapter 26, in heading No. 26.20 in column (3), for the words "METALLIC COMPOUNDS", the words "METAL COMPOUNDS" shall be substituted;

(7) in Chapter 27, in sub-heading Nos. 2710.60 2710. 70, 2710.80 and 2710.95, the entry in column (4), the entry "Rs. 4.,000 per tonne" shall be substituted;

(8) in Chapter 28,—

(a) in Note 2, in clause (e), for the words "metallic derivatives", the words "metal derivatives" shall be substituted;

(b) in Note, 4, for the words "a metallic acid", the words "a metal acid" shall be substituted;

(c) in Note 5, for the word "metallic", the word "metal" shall be substituted;

(d) in Note 6, in clause (d), for the figures and words "0.002 micro-curie per gram", the figures and letters "74Bq/g (0.002 uci/g);" shall be substituted;

(e) in heading No. 28.18, for the entry in column (3), the following entry shall be substituted, namely:—

"ARTIFICIAL, CORUNDUM, WHETHER OR NOT CHEMICALLY DEFINED; ALUMINIUM OXIDE, ALUMINIUM HYDROXIDE";

(f) in heading No. 28.50, for the entry in column (3), the following entry shall be substituted, namely:—

"HYDRIDES, NITRIDES, AZIDES, SILICIDES AND BORIDES, WHETHER OR NOT CHEMICALLY DEFINED, OTHER THAN COMPOUNDS WHICH ARE ALSO CARBIDES OF HEADING NO. 28.49";

(9) in Chapter 29, in Note 7, for the words "and imides of polybasic acids", the words "or imides of polybasic acids" shall be sub-stituted;

(10) in Chapter 32 in Note 2, for the words "colouring matters" the words "colouring matter" shall be substituted;

(11) in Chapter 34,—

(a) in Note 5, in clause (ii), for the word "coloured", the words "refined or coloured" shall be substituted;

(b) in sub-heading No. 3402.90, for the entry in column (4), the entry "30% *plus* Rs, 2.000 per tonnes" shall be substituted;

(c) in sub-heading No. 3403.00, for the entrt in column (4), the entry "15% *plus* Rs. 3,500 per tonne" shal be substituted;

(12) in Chapter 39, in Note 10, for the words "when so cut,", the words "when so cut" shall be substituted;

(13) in Chapter 40,—

(*a*) in sub-heading No. 4011.50, for the entry in column (4), the entry "Rs. 2,800 per tyre" shall be substituted;

(*b*) in sub-heading No. 4012.19, for the entry in column (4), the entry "Rs. 24 per flap" shall be substituted;

(14) in Chapter 44,—

(*a*) in NOTE 5, for the words "glued together", the words "glued or otherwise joined together" shall be substituted;

(*b*) in sub-heading Nso. 4408.10, 4408.20 4408.30 and 4408.90, for the entry in column (4), the entry "30% *plus* Rs. 10 per mm thickness per square metre" shal be substituted;

(15) in Section XI, in NOTE 5, for clause (*c*), for the words "fabrics, the, "words 'fabrics the " shall be substituted;

(16) in Chapter 52, in sub-heading No. 5203.00, for the entry in column (4), the entry "Rs 15 per kilogram" shall be substituted;

(17) in Chapter 56,—

(*a*) in NOTE 3, in clause (*c*), for the word "strips", the words "strip" shal be substituted;

(*b*) in heading No. 56.07, in column (3), for the words "ROPE" the word "ROPES" shall be substituted;

(18) in Chapter 58, in NOTE 3. for the word "purpose", th word "purposes" shall be substituted;

(19) in Chapter 59, in NOTE 7, in clause (*a*), in sub-clause (*iv*), for the word "fabric", the word "fabrics" shll be substituted;

(20) in Chaptes 71,—

(*a*) in NOTE 1,—

(*i*) in clause (c), for the words "Articles of", the words "Goods of" shall be substituted;

(*ii*) for clause (*m*), the folowing clause shall be substituted, namely:—

"(*m*) Articles classified in Chapter 96 by virtue of NOTE 4 to that Chapter";

(*b*) in NOTE 8, for the words "and hairpins", the words "or hairpins" shall be substituted;

(21) in Chapter 72,—

(*a*) in NOTE 1, in clause (*k*), in the last paragraph, for the words "of any size", the words "of any size", shall be substituted;

(*b*) for the entry in column (4), occurring against all the sub-heading Nos, the entry '15%" *plus* Rs. 3,000 per tonne" shall he substituted;

(22) in Chapter 73,—

(*a*) in sub-heading Nos, 7301.10, 7301.20, 7302.10, 7302.20, 7303.00, 7304.10, 7304.90, 7305.10, 7305.90, 7306.10 and 7306.90, for the entry in column (4), the entry "15% *plus* Rs. 30,000 per tonnes." shall be substituted;

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(*b*) in sub-heading No, 7308.40, for the entry in column (3), the following entry shall be substituted, namely:—

—"Equipment for scaffolding, shuttering, propping or pitpropping";

(*c*) in sub-heading Nos, 7325.10, 7325.20, 7325.30, 7325.90 and 7327.00, for the entry in column (4), the entry "15% *plus* Rs. 3,000 pr tonne" shall be substituted;

(23) in Chapter 74,——

(*a*) in NOTE 1, in clause (*g*), for the words "of any size", the words "of any size," shall be substituted;

(*b*) in sub-heading Nos, 7401.10, 7401.20, 7402.00, 7403.11, 7403.12, 7403.13, 7403.19 7403.21, 7403.22, 7403.23, 7403.29, 7404.00 and 7405.00, for the entry in column (4), the entry "15% *plus* Rs. 10,000 per tonne" shall be substituted;

(*c*) in sub-heading Nos, 7407.11 and 7407.12, for the entry in column (4), the entry "20% shall be substituted;

(*d*) in sub-heading Nos, 7407.29, 7408.11 7408.21, 7409.10, 7409.20, 7409.30, 7409.40, 7409.90, 7410.11, 7410.12, 7410.21, and 7410.22, for the entry in column (4), the entry "15%" *plus* Rs. 10,000 per tonne, shall be substituted;

(24) in Chapter 75, in the NOTE, in clause (*d*), for the words "of any size", the words "of any, size," shall be substituted;

(25) in Chapter 76, in the NOTE, in clause (*d*), for the words "of any size", the words "of any size" shall be substituted;

(26) in Chapter 78,—

(*a*) in the NOTE, in clause (*d*), for the words "of any size", the words "of any size" shall be substituted;

(*b*) in sub-heading Nos, 7801, 10, 7801.90, 7802.00, 7803.10, 7803.29, 7803.30 and 7804.10, for the entry in column (4), the entry "15% *plus* Rs. 5,000 per tonne" shall be substituted;

(27) in Chapter 79,—

(*a*) in the NOTE, in clause (*d*), for the words "of any size" the words "of any size" shall be substituted;

(*b*) in sub-heading Nos, 7901.10, 7901.20, 7902.00, 7904.10, 7904.29 7904.30 7905.10 and 7905.90, for the entry in column (4), the entry "15%" *plus* Rs. 8.000, per tonne shall be substituted;

(28) in Chapter 80, in the NOTE, in clause (*d*) for the words "of any size", the words "of any size", shall be substituted.

(29) in Chapter 84,—

(*a*) in heading No. 84.26, in column (3), for the word "DERRICKS", the words "SHIPS' DERRICKS" shall be substituted;

(*b*) in heading No. 84.70, for the entry in column (3), the following entry shall be substituted, namely:—

"CALCULATIG MACHINES; ACCOUNTING MACHINES, POSTAGE FRANKING MACHINES, TICKET-ISSUING MACHINES AND SIMILAR MACHINES, INCORPORATING A CALCULATING DEVICE; CASH REGISTERS";

(*c*) in sub-heading No. 8479.00, for the entry in column (4), the entry "20%" shall be substituted;

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(30) in Chapter 85,—

(*a*) in NOTE, 5, in clause (*b*), in sub-clause (*iii*), for the words "and passive", the words "and passive," shall be substituted;

(*b*) in heading No. 85.21, for the entry in column (*3*), the following entry shall be substituted, namely:—

"VIDEO RECORDING OR REPRODUCING APPARATUS, WHETHER OR NOT INCORPORATING A VIDEO TUNER";

(*c*) in heading No. 85.28, for the entry in column (3), the following entry shall be substituted, namely:—

"TELEVISION RECEIVERS (INCLUDING VIDEO MONITORS AND VIDEO PROJECTORS), WHETHER OR NOT INCORPORATING RADIO BROADCAST RECEIVERS OR SOUND OR VIDEO RECORDING OR REPRODUCING APPARATUS";

(31) in Chapter 87,—

(*a*) NOTE 3 shall be omitted;

(*b*) the existing NOTES 4, 5 and 6 shall be renumbered as NOTES 3, 4 ands respectively;

(*c*) [illegible] heading No. 87.02, for the entry in column (*3*), the following entry shall be substituted, namely:—

"MOTOR VEHICLES FOR THE TRANSPORT OF TEN OR MORE PERSONS, INCLUDING THE DRIVER";

(32) in Chapter 89, in heading No. 89.07, in column (*3*), for the words "LANDING STAGES", the word "LANDING-STAGES" shall be substituted;

(33) in Chapter 90,—

(*a*) in NOTE 1, clauses (*b*) to (*k*) shall be renumbered as clause (*c*) to (*l*) respectively and before clause (*e*) as so renumbered, the following clause shall be inserted, namely:—

"(*b*) supporting belts or other support articles of textile material, whose intended effect on the organ to be supported or held derives solely from their elasticity (for example, maternity belts, thoracic support bandages, abdominal support bandages, supports for joints or muscles) (Section XI);";

(*b*) in heading No. 90.11, in column (*3*), for the words "MICROPHOTOGRAPHY, MICROCINEMATOGRAPHT", the words "PHOTOMICROGRAPHY, CINEPHOTOMICROGRAPHY" shall be substituted;

(*c*) in heading No. 90.29, in column (*3*), for the figures "90.15", the figures and word "90.14 OR 90.15" shall be substituted;

(34) in Chapter 92, in NOTE 1,—

(*i*) for clauses (*c*) and (*d*), the following clauses shall be substituted, namely:—

"(*c*) Toy instruments or apparatus (heading No. 95.03); or

(*d*) Brushes for cleaning musical instruments (heading No. 96.03). ";

(*ii*) clause (*e*) shall be omitted;

(35) in Chapter 95,—

(*a*) in NOTE 1, in clause (*h*), for the words "Walking sticks", the word "Walking-sticks" shall be substituted;

(*b*) in heading No. 95.06, for the entry in column (3), the following entry shall be substituted, namely:—

"ARTICLES AND EQUIPMENT FOR GENERAL PHYSICAL EXERCISE, GYMNASTICS, ATHLETICS, OTHER SPORTS (INCLUDING TABLE-TENNIS) OR OUT-DOOR GAMES, NOT SPECIFIED OR INCLUDED ELSEWHERE IN THIS CHAPTER";

(36) in Chapter 96, in sub-heading No. 9617.00 for the entry in column (4), the entry "30%" shall be substituted.

PART II

Heading No.	Sub-heading No.	Description of goods	Rate of duty
(1)	(2)	(3)	(4)

In the Schedule to the Central Excise Tariff Act, in Chapter 25, for sub-heading No. 2502.20 and the entries relating thereto, the following sub-heading Nos, and entries shall be substituted, namely:—

		"Portland cement :	
	2502.21	White cement whether or not artificially coloured and whether or not with rapid hardening properties	40% *plus* Rs. 250 per tonne
	2502.29	Other	40% *plus* Rs. 250 per tonne".

SD/--
K. L. MOHANPURIA,
Secy, to the Govt. of India.

By order and in the name of the Governor of Gujarat,

R. H. GORI,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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Extra No. 50

REGISTERED NO. G/GNR/2

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The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXXIV] THURSDAY, NOVEMBER 11, 1993/KARTIKA 20, 1915

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, 30th October, 1993.

No. RP/148/93/20/92/RCS.—The following Act of Parliament is re-published for general information:

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 17th May, 1992/Vaisakha 27, 1914 (Saka)

The following Act of Parliament received the assent of the President on the 17th May, 1992, and is hereby published for general information:—

THE PARLIAMENT (PREVENTION OF DISQUALIFICATION) AMENDMENT ACT, 1992

No. 20 OF 1992

[*17th May*, 1992.]

AN ACT

further to amend the Parliament (Prevention of Disqualification) Act, 1959.

Be it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

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Short title. 1. This Act may be called the Parliament (Prevention of Disqualification) Amendment Act, 1992.

Amendment of section 3. 2. In Section 3 of the Parliament (Prevention of Disqualification) Act, 1959 (hereinafter referred to as the principal Act), in clause (*i*), for the words, brackets and figures "and (*ii*) the office of chairman or secretary of any statutory or non- statutory body specified in Part II of the Schedule;", the following shall be substituted, namely:— **10 of**

> "(*ii*) the office of chairman or secretary of any statutory or non-statutory body specified in Part II of the Schedule and (*iii*) the office of deputy chairman of the non-statutory body specified in Part III of the Schedule;".

Amendment of the Schedule. 3. In the Schedule to the principal Act, after Part II, the following Part shall be added, namely:—

"PART III

BODY UNDER THE CENTRAL GOVERNMENT

Planning Commission.".

Sd/-
A. C. C. UNNI,
Additional Secretary to the Govt. of India.

By order and in the name of the Governor of Gujarat,

R. H. GORI,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, 30th October, 1993.

No. RP/120/93/33/93/Research.—The following Act of Parliament is re-published for general information :

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 3rd April, 1993 /Chaitra 13, 1915 (Saka).

The following Act of Parliament received the assent of the President on the 3rd April, 1993 and is hereby published for general information ;

THE ACQUISITION OF CERTAIN AREA AT AYODHYA ACT, 1993

[Act No. 33 of 1993] [3rd April, 1993]

AN ACT

to provide for the acquisition of certain area at Ayodhya and for matters connected therewith or incidental thereto.

WHEREAS there has been a long-standing dispute relating to the structure (including the premises of the inner and outer courtyards of such structure), commonly known as the Ram Janma Bhumi-Babri Masjid, situated in village Kot Ramchandra in Ayodhya, in Pargana Haveli Avadh, in tehsil Faizabad, Sadar, in the district of Faizabad of the State of Uttar Pradesh;

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AND WHEREAS the said dispute has affected the maintenance of public order and harmony between different communities in the country;

AND WHEREAS it is necessary to maintain public order and to promote communal harmony and the spirit of common brotherhood amongst the people of India;

AND WHEREAS with a view to achieving the aforesaid objectives, it is necessary to acquire certain areas in Ayodhya;

BE it enacted by Parliament in the Forty-fourth Year of the Republic of India as follows.—

CHAPTER I

PRELIMINARY

Short title and commencement.

1. (*1*) This Act may be called the Acquisition of Certain Area at Ayodhya Act, 1993.

(*2*) It shall be deemed to have come into force on the 7th day of January, 1993.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "area" means the area (including all the buildings, structures or other properties comprised therein) specified in the Schedule;

(*b*) "authorised person" means a person or body of persons or trustees of any trust authorised by the Central Government under section 7;

(*c*) "Claims Commissioner" means the Claims Commissioner appointed under sub-section (*2*) of section 8;

(*d*) "prescribed" means prescribed by rules made under this Act.

CHAPTER II

ACQUISITION OF THE AREA IN AYODHYA

Acquisition of rights in respect of certain area.

3. On and from the commencement of this Act, the right, title and interest in relation to the area shall, by virtue of this Act, stand transferred to, and vest in, the Central Government.

General effect of vesting.

4. (*1*) The area shall be deemed to include all assets, rights, leaseholds, powers, authority and privileges and all property, movable and immovable, including lands, buildings, structures, shops of whatever nature or other properties and all other rights and interests in, or arising out of, such properties as were immediately before the commencement of this Act in the ownership, possession, power or control of any person or the State Government of Uttar Pradesh, as the case may be, and all registers, maps, plans, drawings and other documents of whatever nature relating thereto.

(*2*) All properties aforesaid which have vested in the Central Government under section 3 shall, by force of such vesting, be freed and discharged from any trust, obligation, mortgage, charge, lien and all other encumbrances affecting them and

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any attachment, injunction, decree or order of any court or tribunal or other authority restricting the use of such properties in any manner or appointing any receiver in respect of the whole or any part of such properties shall cease to have any effect.

(3) If, on the commencement of this Act, any suit, appeal or other proceeding in respect of the right, title and interest relating to any property which has vested in the Central Government under section 3, is pending before any court, tribunal or other authority, the same shall abate.

Duty of person or State Government in charge of the management of the area to deliver all assets, etc.

5. (*1*) The Central Government may take all necessary steps to secure possession of the area which is vested in that Government under section 3.

(2) On the vesting of the area in the Central Government under section 3 the person or State Government of Uttar Pradesh, as the case may be, in charge of the management of the area immediately before such veting shall be bound to deliver to the Central Government or the authorised person, all assets, registers and other documents in their custody relating to such vesting or where it is not practicable to deliver such registers or documents, the copies of such registers or documents authenticated in the prescribed manner.

Power of Central Government to direct vesting of the area in another authority or body or trust.

6. (*1*) Notwithstanding anything contained in sections 3, 4, 5 and 7, the Central Government may, if it is satisfied that any authority or other body, or trustees of any trust, set up on or after the commencement of this Act is or are willing to comply with such terms and conditions as that Government may think fit to impose, direct by notification in the Official Gazette, that the right, title and interest or any of them in relation to the area or any part thereof, instead of continuing to vest in the Central Government, vest in that authority or body or trustees of that trust either on the date of the notifiation or on such later date as may be specified in the notification.

(2) When any right, title and interst in relation to the area or part therof vest in the authority or body or trustees referred to in sub-section (*1*), such rights of the Central Government in relation to such area or part thereof, shall, on and from the date of such vesting, be deemed to have become the rights of that authority or body or trustees of that trust.

(*3*) The provisions of sections 4,5,7 and 11 shall, so far as may be, apply in relation to such authority or body or trustees as they apply in relation to the Central Government and for this purpose references therein to the Central Government shall be construed as references to such authority or body or trustees.

CHAPTER III

MANAGEMENT AND ADMINISTRATION OF PROPERTY

Management of property by Government.

7. (*1*) Notwithstanding anything contained in any contract or instrument or order of any court, tribunal or other authority to the contrary, on and from the commencement of this Act, the property vested in the Central Government under section 3 shall be managed by the Central Government or by a person or body of persons or trustees of any trust authorised by that Government in this behalf.

(2) In managing the property vested in the Central Government under section 3, the Central Government or the authorised person shall ensure that the position existing before the commencement of this Act in the area on which the structure (including the premises of the inner and outer courtyards of such structure), commonly known as the Ram Janma Bhumi-Babri Masjid, stood in village Kot Ramchandra in Ayodhya, in Pargana Haveli Avadh, in tehsil Faizabad Sadar, in the district of Faizabad of the State of Uttar Pradesh is maintained.

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CHAPTER IV

MISCELLANEOUS

Payment of amount.

8. *(1)* The owner of any land building, structure or other property comprised in the area shall be given by the Central Government, for the transfer to and vesting in that Government under section 3 of that land, building, structure or other property, in cash and amount equivalent to the market value of the land, building, structure or other property.

(2) The Central Government shall, for the purpose of deciding the claim of the owner or any person having a claim against the owner under sub-section *(1)*, by notifiction in the Official Gazette, appoint a Claims Commissioner.

(3) The Claims Commissioner shall regulate his own procedure for receiving and deciding the claims.

(4) The owner or any person having a claim against the owner may make a claim to the Claims Commissioner within a period of ninety days from the date of commencement of this Act:

Provided that if the Claims Commissioner is satisfied that the claimant was prevented by sufficient cause from preferring the claim within the said period of ninety days, the Claims Commissioner may entertain the claim within a further period of ninety days and not thereafter.

Act to override all other enactments.

9. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having effect by virtue of any law other than this Act or any decree or order of any court, tribunal or other authority.

Penalties.

10. Any person who is in charge of the management of the araa and fails to deliver to the Central Government or the authorised person any asset, register or other documennt in this custody relating to such area or, as the case may be, authenticated copies of such register or document, shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to ten thousand rupees or with both.

Protection of action taken in good faith.

11. No suit, prosecution or other legal proceeding shall lie against the Central Government or the authorised person or any of the officers or other employees of that Government or the authorised person for anything which is in good faith done or intended to be done under this Act.

Power to make rules

12. *(1)* The Central Government may, by notification in the Official Gazette make rules to carry out the provisions of this Act.

(2) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more susccessive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified from or be of no effect as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Repeal and saving.

Ord. 8 of 1993.

13. (*1*) Subject to the provisions of sub-section (*2*), the Acquisition of Certain Area at Ayodhya Ordinance, 1993, is hereby repealed.

(*2*) Notwithstanding anything contained in the said Ordinance,—

(*a*) the right, title and interest in relation to plot No. 242 situated in village Kot Ramchandra specified against Sl. No. 1 of the Schedule to the said Ordinance shall be deemed never to have been transferred to, and vested in, the Central Government;

(*b*) any suit, appeal or other proceeding in respect of the right, title and interest relating to the said plot No. 242, pending before and court, tribunal or ohter authority, shall be deemed never to have abated and such suit, appeal or ohter proceeding (including the orders or interim orders of any court thereon) shall be deemed to have been restored to the position existing immediately before the commencement of the said Ordinance;

(*c*) any other action taken or thing done under that Ordinance in relation to the said plot No. 242 shall be deemed never to have been taken or done.

(*3*) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

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THE SCHEDULE

[*See* section 2 (*a*)]

DESCRIPTION OF THE AREA

Sr. No. (1)	Name of Village/Pargana/ Tehsil/District/State (2)	Revenue (Khasra) Plot No. (3)	Area to be acquired Bigha (4)	Biswa (5)	Biswansi (6)
1.	Village Kot Ramchandra, Pargana Haveli Avadh, tehsil Faizabad Sadar, District Faizabad, Uttar Pradesh.	143	0	9	0
		144	0	7	0
		145	0	8	0
		146	1	6	7
		147	5	8	0
		158	0	4	0
		159	0	13	8
		160	5	13	0
		161	0	18	0
		162	1	8	7
		168	1	2	0
		169	1	7	0
		170	0	8	0
		171	1	7	0
		172	2	7	0
		173	0	18	0
		174	0	3	0
		175	0	6	0
		176	1	2	0
		177	0	16	0
		178	0	10	0
		179	0	14	0
		180	0	14	5
		181	0	13	10
		182	0	7	5
		183	0	7	5
		184	0	6	0
		185	0	7	5
		186	0	6	10
		187	0	7	0
		188	0	18	15
		189	0	14	0
		190	0	4	0
		191	4	6	14
		192	0	7	0
		193	0	12	0
		194	4	19	0
		195	0	5	0
		196	0	5	0
		197	0	5	0
		198	0	3	0
		199	0	12	0
		200	2	0	0
		204 (part) Bounded by plot No. 222 on South, plot No. 205 on West and plot No. 231 on East.	0	3	0
		205	0	10	0
		206	0	5	0

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(1)	(2)	(3)	(4)	(5)	(6)
		207	0	19	0
		208	0	5	0
		209	1	11	0
		210	0	8	0
		211	0	13	0
		212	0	4	14
		213	1	19	15
		214	0	6	0
		215	0	2	5
		216	0	6	0
		217	0	11	0
		218	0	3	0
		219	1	6	5
		220	0	12	0
		221	1	2	15
		222	0	5	7
		223	5	6	0
		224	1	0	0
		225	0	11	15
		226	0	10	5
		227	0	7	5
		228	0	5	0
		229	0	11	10
		230	0	2	10
		231	1	1	10
		232	0	2	0
		233	0	2	0
		234	1	12	0
		235	0	10	0
		236	0	4	0
		237	0	1	0
		238	1	6	0
		239	2	1	0
		244 (part) Bounded on the North partly by plot No. 240 and partly by plot No. 243, on the West partly by plot No. 239 and partly by plot No. 240 and on the South by plot No. 246.	0	14	10
		246 (part) Bounded by plot No. 238 on the South, plot No. 239 on the West and plot No. 244 on the North.	0	18	0
			75	14	7

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(1)	(2)	(3)	(4)	(5)	(6)
2.	Village Avadhkhas, Pargana Haveli Avadh, tehsil Faizabad Sadar, District Faizabad, Uttar Pradesh.	1104	0	11	17
		1105	0	7	14
		1106	0	6	2
		1107	0	14	14
		1108	0	4	3
		1109	0	3	0
		1110	0	4	5
		1111	0	12	15
		1112	0	5	8
		1113	0	5	10
		1114	0	0	10
		1115	0	1	10
		1116	0	3	10
		1117	0	9	12
		1118	1	1	17
		1119	0	7	14
		1120	0	13	15
		1121	0	3	0
		1122	0	8	0
		1123	0	8	0
		1124	0	9	10
		1125	0	6	6
		1126	0	4	15
		1127	0	11	4
		1128	1	12	6
		1129	0	5	9
		1130	0	5	0
		1132	1	3	5
		1133	0	4	15
		1134	0	4	0
		1135	0	1	0
		1136	0	9	0
		1143	0	4	5
		1144	0	5	15
		1145	0	0	15
		1146	0	3	0
		1147	0	5	0
		1148	0	7	15
		1149	0	6	10
		1166 (part)	0	6	0
		Bounded by plot No. 1203 on East, plot No. 1151 on West and plot No. 1167 on South.			
		1206	0	7	0
		1210	0	1	5
		1211	0	2	5
		1212	0	11	5
		1213	0	2	10
		1214	0	7	0
		1215	0	0	15
		1216	0	0	15
		1217	0	3	5

(1)	(2)	(3)	(4)	(5)	(6)
		1218	0	4	10
		1219	0	5	0
		1220	0	7	5
		1221	0	11	10
		1222	0	4	0
		1223	0	1	15
		1225	0	12	15
		1226	0	8	10
		1227	0	7	15
		1228	0	4	15
		1229	0	1	0
		1230	0	13	5
		1231	0	7	5
		1232	0	1	6
		1233	0	4	15
		1234	0	7	5
		1235	0	1	6
		1236	0	2	5
		1237	0	9	10
		1238	0	1	18
		1239	0	1	10
		1240	0	8	15
		1241	0	1	10
		1242	0	1	15
		1243	0	2	0
		1247 (part) Bounded by plot No. 1248 on North, plot No. 1246 on South and plot No. 1291 on East/Road).	0	5	0
		1248	1	7	10
		1249	0	0	13
		1250	0	7	7
		1251	0	8	0
		1252	0	9	0
		1253	0	12	10
		1254	0	4	0
		1255	0	2	0
		1256	0	2	0
		1257	0	2	10
		1258	0	2	5
		1259	0	1	10
			27	00	11
3.	Village Jalwanpur, Pargana Haveli, Avadh, tehsil Faizabad Sadar, District Faizabad, Uttar Pradesh.	1	0	3	5
		2	1	1	0
		3	0	0	5
		4	1	9	15
		5	0	0	10
		6	0	19	0
		7	0	2	15
		8	0	4	15
		9	0	10	10
		10	0	0	10

(1)	(2)	(3)	(4)	(5)	(6)
		11	0	3	0
		12	0	14	5
		13	0	10	0
		14	0	0	10
		15	0	14	15
		16	0	8	15
		17	0	3	15
		18	0	6	5
		19	0	7	5
		27	1	6	0
			9	7	15

Sd/-

SHRI B. R. ATRE,
Joint Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

R. H. GORI,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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Extra No. 52 REGISTERED NO. G/GNR/2

The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXXIV] THURSDAY, NOVEMBER 11, 1993/KARTIKA 20, 1915

Separate paging is given to this Part in order that it may be filed as a separate Compilation.

PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, 30th October, 1993.

No. RP/122/93/37/93/RES:—The following Act of Parliament is re-published for general information :

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 7th May, 1993/Vaishakha 17, 1915 (Saka).

The following Act of Parliament received the assent of the President on the 7th May, 1993. and is hereby published for general information :

THE CINE-WORKERS WELFARE CESS (AMENDMENT) ACT, 1993.

AN ACT

(No. 37 of 1993) **[7th May, 1993]**

to amend the Cine-workers Welfare Cess Act, 1981.

Be it enacted by Parliament in the Forty-fourth Year of the Republic of India as follows:—

Short title. 1. This Act may be called the Cine-workers welfare Cess (Amendment) Act, 1993.

Amendment of section 3 of Act 30 of 1981. 2. In section 3 of the Cine-workers Welfare Cess Act, 1981, for sub-section (*1*), the following sub-section shall be substituted, namely :—

"(*1*) There shall be levied and collected as a cess, for the purposes of the Cine-workers Welfare Fund Act, 1981, a duty of excise at such rate, not being less than one thousand rupees and not exceeding twenty thousand rupees on every feature film, as the Central Government may, by notification in the Official Gazette, specify from time to time." 33 of 1981.

Sd/-

A. C. C. UNNI,
Additional Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

R. H. GORI,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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Extra No. 53 **REGISTERED NO. G/GNR/2**

सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY

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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, 30th October, 1993.

No. RP/124/93/42/93/RCS.—The following Act of Parliament is re-published for general information :

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 22nd May, 1993/Jayestha 1, 1915 (Saka).

The following Act of Parliament received the assent of the President on the 22nd May, 1993 and is hereby published for general information :

THE CRIMINAL LAW (AMENDMENT) ACT, 1993

(No. 42 of 1993) **(22nd May, 1993)**

AN ACT

further to amend the Indian Penal Code and the Code of Criminal Procedure, 1973.

Be it enacted by Parliament in the Fourty-forth year of the Republic of India as follows:—

1. This Act may be called the Criminal Law (Amendment) Act, 1993. Short title.

45 of 1860 2. In the Indian Penal Code, after section 364, the following section shall be inserted, namely:— Insertion of new section 364A.

Kidnapping for ransom, etc.

"364A. Whoever kidnaps or abducts any person or keeps a person in detention after such kidnapping or abduction, and threatens to cause death or hurt to such person, or by his conduct gives rise to a reasonable apprehension that such person may be put to death or hurt, or causes hurt or death to such person in order to compel the Government or any other person to do or abstain from doing any act or to pay a ransom, shall be punishable with death, or imprisonment for life, and shall also be liable to fine.".

Amendment of section 39.

3. In section 39 of the Code of Criminal Procedre, 1973 (hreinafter refrred to as the Criminal Procedure Code), in sub-section (*1*), after clase (*v*), the following clasue shall be inserted, namely:— 2 of 1974.

"(v) section 364A (that is to say, offence relating to kidnapping for ransom, etc.);".

Amendment of the First Schedule.

4. In the First Schedule to the Criminal Procedure Code, under the heading "I.—OFFENCES UNDER THE INDIAN PENAL CODE", after the entries relating to section 364, the following entries shall be inserted, namely:—

1	2	3	4	5	6
"364A	Kidnapping for ransom, etc.	Death, or imprisonment for life, and fine	Ditto	Ditto	Ditto.".

Sd/-
K. L. MOHANPURIA,
Secy. to the Govt. of India.

By order and in the name of the Governor of Gujarat,

R. H. GORI,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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Extra No. 54 REGISTERED NO. G/GNR/2

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, 30th October, 1993.

No. RP/125/93/43/93/RES—The following Act of Parliament is re-published for general information :

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 22nd May, 1993/Jayestha 1, 1915 (Saka)

The following Act of Parliament received the assent of the President on the 22nd May, 1993 and is hereby published for general information :

THE TERRORIST AND DISRUPTIVE ACTIVITIES (PREVENTION) AMENDMENT ACT, 1993

[No. 43 of 1993] **[22nd May, 1993]**

AN ACT

further to amend the Terrorist and Disruptive Activities (Prevention) Act, 1987.

Be it enacted by Parliament in the Forty-fourth Year of the Republic of India as follows :—

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Short title.

1. This Act may be called the Terrorist and Disruptive Activities (Prevention) Amendment Act, 1993.

Amendment of section 1.

2. In the Terrorist and Disruptive Activities (Prevention) Act, 1987 (hereinafter referred to as the principal Act), in section 1, in sub-section (*4*), for the words "six years", the words "eight years" shall be substituted.

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Amendment of section 2.

3. In section 2 of the Principal Act, in sub-section (*1*), after clause (*g*), the following clause shall be inserted, namely:—

'(*gg*) "property" means property and assets of every description, whether corporeal or incorporeal, movable or immovable, tangible or intangible and deeds and instruments evidencing title to, or interest in, such property or assets, derived or obtained from the terrorist act and includes proceeds of terrorism;'.

Amendment of section 3.

4. In section 3 of the principal Act, after sub-section (*4*), the following sub-sections shall be inserted, namely:—

"(*5*) Any person who is a member of a terrorists gang or a terrorists organisation, which is involved in terrorist acts, shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life and shall also be liable to fine.

(*6*) Whoever holds any property derived or obtained from commission of any terrorist act or has been acquired through the terrorist funds shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life and shall also be liable to fine.".

Insertion of new section 7A.

5. After section 7 of the principal Act, the following section shall be inserted namely:—

Powers of investigating officers.

"7A. If an officer investigating an offence committed under this Act has reason to believe that any property in relation to which an investigation is being conducted is a property dervied or optained from the commission of any terrorist act and include proceeds of terrorism, he shall, with the approval of the Superintendent of Police, make an order seizing such property and where it his not practicable to seize such property and where it is not practicable to seize such property, he may make an order of attachment directing that such property shall not be transfered or otherwise dealt with except the prior permission of the officer making such order, or of the Designated Court and a copy of such order shall be served on the persons concerned:

Provided that the investigating officer shall duly inform the Designated Court within forty-eight hours of the attachment of such property and the said court shall either confirm or revoke the order of attachment so issued.".

Amendment of section 15.

6. In Section 15 of the principal Act, —

(*a*) in sub-section (*1*), after the words "trial of such person", the words "or co-accused, abettor or conspirator" shall be inserted;

(*b*) after sub-section (*1*), the following proviso shall be inserted, namely:—

"Provided that co-accused, abettor or conspirator is charged and tried in the same case together with the accused.".

Amendment of section 16.

7. In section 16 of the principal Act, for sub-section (*1*), the following sub-section shall be substituted, namely;—

"(*1*) Notwithstanding anything contained in the Code, the proceedings under this Act may be held *in camera* if the Designated Court so desires.".

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Amendment of section 20.

8. In section 20 of the principal Act, in sub-section (*4*),—

(*a*) in clause (*b*), for the words "one year", at both the places where they occur, the words "one hundred and eighty days" shall be substituted;

(*b*) after clause (*b*), the following clause shall be inserted, namely:—

'(*bb*) in sub-section (*2*), after the proviso, the following proviso shall be inserted, namely:—

> "Provided further that, if it is not possible to complete the investigation within the said period of one hundred and eighty days, the Designated Court shall extend the said period up to one year, on the report of the public prosecutor indicating the progress of the investigation and the specific reasons for the detention of the accused beyond the said period of one hundred and eighty days;and.";

Insertion of new section 20A.

9. After section 20 of the principal Act, the following section shall be inserted, namely:—

Cognizance of offence.

"20A. (*1*) Notwithstanding anything contained in the Code, no information about the commission of an offence under thisAct shall be recorded by the police without the prior approval of the District Superintendent of Police.

(2) No court shall take cognizance of any offence under this Act without the previous sanction of the Inspector-General of Police or as the case may be, the Commissioner of Police.".

Amendment of section 21.

10. In section 21 of the principal Act, in sub-section (*1*), clauses (*c*) and (*d*) shall be ommitted.

Sd/-

K. L. MOHANPURIA,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

R. H. GORI,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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The Gujarat Government Gazette

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PUBLISHED BY AUTHORITY

Vol. XXXIV] THURSDAY, NOVEMBER 11, 1993/KARTIKA 20, 1915

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, 30th October, 1993.

No. RP/128/93/48/93/RCS.--The following Act of Parliament is re-published for general information :

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 9th June, 1993/Jayestha 19, 1915 (Saka)

The following Act of Parliament received the assent of the President on the 9th June, 1993 and is hereby published for general information :

THE SALARY, ALLOWANCES AND PENSION OF MEMBERS OF PARLIAMENT (AMENDMENT) ACT, 1993

(No. 48 of 1993) [9th June, 1993]

AN ACT

further to amend the Salary, Allowances and Pension of Members of Parliament Act, 1954.

Be it enacted by Parliament in the Forty-fourth Year of the Republic of India as follows:—

1. This Act may be called the Salary, Allowances and Pension of Members of Parliament (Amendment) Act, 1993. Short title.

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Amendment of section 3.

2. In section 3 of the Salary, Allowances and Pension of Members of Parliament Act, 1954 (hereinafter referred to as the principal Act),— 30 of 1954

(i) for the words "one hundred and fifty rupees", the words "two hundred rupees" shall be substituted;

(ii) the following proviso shall be inserted at the end, namely :-

"Provided that no member shall be entitled to the aforesaid allowance unless he signs the register, maintained for this purpose by the Secretariat of the House of the people or, as the case may be, Council of States, on all the days (except intervening holidays for which no such signing is required) of the session of the House for which the allowance is claimed.".

Amendment of section 4.

3. In section 4 of the principal Act, in sub-section (*1*), in clause (c), in sub-clause (*ii*),-

(*a*) for the portion beginning with the words "one rupee and thirty paise", and ending with the words "in respect of road journeys", the following shall be substituted, namely :—

"five rupees per kilometre";

(*b*) after the existing proviso and before the *Explanation*, the following proviso shall be inserted, namely:—

"Provided further that where a member performs journey by road in Delhi from and to an aerodrome, he shall be paid a minimum amount of one hundred and twenty rupees for each such journey.".

Amendment of section 8 A.

4. In section 8A of the principal Act—

(*a*) in sub-section (*1*),—

(*i*) for the portion beginning with the words "With effect from the commencement of the Salaries and Allowances of Members of Parliament (Amendment) Act, 1976", and ending with the words "whether continuous or not", the following shall be substituted, namely:— 105 of 1976.

"With effect from the commencement of the Salary, Allowances and Pension of Members of Parliament (Amendment) Act, 1993, there shall be paid a pension of one thousand and four hundred rupees per mensem to every person who has served for a period of four years, whether continuous or not";

(*ii*) for the existing provisos, the following proviso shall be substituted, namely:-

"Provided that where any person has served as aforesaid for a period exceeding five years, there shall be paid to him an additional pension of two hundred and fifty rupees per mensem for every year in excess of five years:

Provided further that where any person has served as a Member of the House of the People twice for its duration as provided in clause (*2*) of article 83 of the Constitution, whether consecutively or not, and who is not entitled to any pension under the foregoing provisions of this sub-section, he shall with effect from the commencement of the Salary, Allowances and Pension of Members of Parliament (Amendment) Act, 1993, be entitled to a pension of one thousand and four hundred rupees per mensem;

Provided also that every person, who has served for any period as a member of the Provisional Parliament and who is not entitled to any pension under the foregoing provisions of this sub-section, shall with effect from the commencement

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of the Salary, Allowances and Pension of Members of Parliament (Amendment) Act, 1993, be entitled to a penson of one thousand and four hundred rupees per mensem.";

(*b*) for sub-section (*3*), the following sub-section shall be substituted, namely:—

"(3) Where any person entitled to pension under sub-secton (*1*) is also entitled to any other pension, such person shall be entitled to receive the pension under sub-section (*1*) in addition to such other pension.".

Sd/-
K. L. MOHANPURIA,
Secretary to the Govt. of India.

By order and in the name of the Governor of Gujarat,

R. H. GORI,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, Dated the 26th November, 1993.

No. RP/152/93/30/93/Research.–The following Ordinance promulgated by the president and published in the Gazette of India, Extra-ordinary, Part-II, Section 1, dated the 28th September, 1993 is republished for general information:–

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 28th September, 1993/Asvina, 6, 1915(Saka)

THE PROTECTION OF HUMAN RIGHTS ORDINANCE, 1993

No. 30 of 1993

Promulgated by the President in the Forty-fourth Year of the
Republic of India.

An ordinance to provide for the constitution of a National Human Rights Commission, State Human Rights Commissions in States and Human Rights Courts for better protection of human rights and for matters connected therewith or incidental thereto.

WHEREAS the Human Rights Commissions Bill, 1993 for the constitution of the said Commissions has been introduced in Parliament but has not yet been passed;

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AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance.–

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (*1*) This Ordinance may be called the Protection of Human Rights Ordinance, 1993.

(2) It extends to the whole of India.

(3) It shall come into force at once.

Definitions.

2. (*1*) In this Ordinance, unless the context otherwise requires,—

(*a*) "armed forces" means the naval, military and air forces and includes any other armed forces of the Union;

(*b*) "Chairperson" means the Chairperson of the Commission or of the State Commission as the case may be;

(*c*) "Commission" means the National Human Rights Commission constituted under section 3;

(*d*) "human rights" means the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Convenants and enforceable by courts in India;

(*e*) "Human Rights Court" means the Human Rights Court specified under section 30;

(*f*) "International Convenants" means the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights adopted by the General Assembly of the United Nations on the 16th December, 1966;

(*g*) "Member" means a Member of the Commission or of the State Commission, as the case may be, and includes the Chairperson;

(*h*) "National Commission for Minorities" means the National Commission for Minorities constituted under section 3 of the National Commission for Minorities Act, 1992;

(*i*) "National Commission for the Scheduled Castes and Scheduled Tribes" means the National Commission for the Scheduled Castes and Scheduled Tribes referred to in article 338 of the Constitution; 19 of 1992

(*j*) "National Commission for Women" means the National Commission for Women constituted under section 3 of the National Commission for Women Act, 1990; 20 of 1990

(*k*) "notification" means a notification published in the Official Gazette;

(*l*) "prescribed" means prescribed by rules made under this Ordinance;

(*m*) "public servant" shall have the meaning assigned to it in section 21 of the Indian Penal Code;

(*n*) "State Commission" means a State Human Rights Commission constituted under section 21. 45 of 1860.

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(2) Any reference in this Ordinance to a law, which is not in force in the State of Jammu and Kashmir, shall in relation to that State be construed as a reference to a corresponding law, if any, in force in that State.

CHAPTER II

THE NATIONAL HUMAN RIGHTS COMMISSION

Constitution of a National Human Rights Commission.

3. (1) The Central Government shall constitute a body to be known as the National Human Rights Commission to exercise the powers conferred upon, and to perform the functions assigned to, it under this Ordinance.

(2) The Commission shall consist of—

(a) a Chairperson who has been a Chief Justice of the Supreme Court;

(b) one Member who is, or has been a Judge of the Supreme Court;

(c) one Member who is, or has been, the Chief Justice of a High Court;

(d) two Members to be appointed from amongst persons having knowledge of, or practical experience in, matters relating to human rights.

(3) The Chairpersons of the National Commission for Minorities, the National Commission for the Scheduled Castes and Scheduled Tribes and the National Commission for Women, shall be deemed to be Members of the Commission for the discharge of functions specified in clauses (b) to (j) of section 12.

(4) There shall be a Secretary-General who shall be the Chief Executive Officer of the Commission and shall exercise such powers and discharge such functions of the Commission as it may delegate to him.

(5) The headquarters of the Commission shall be at Delhi and the Commission may, with the previous approval of the Central Government establish offices at other places in India;

Appointment of Chairperson and other Members.

4. (1) The Chairperson and other Members shall be appointed by the President by warrant under his hand and seal:

Provided that every appointment under this sub-section shall be made after obtaining the recommendations of a Committee consisting of-

(a) the Prime Minister —Chairperson:

(b) Speaker of the House of the People —member;

(c) Minister in-charge of the Ministry of Home Affairs in the Government of India —member;

(d) Leader of the Opposition in the House of the People —member;

(e) Leader of the Opposition in the Council of States —member;

(f) Deputy Chairman of the Council of States —member;

Provided further that no sitting Judge of the Supreme Court or sitting Chief Justice of a High Court shall be appointed except after consultation with the Chief Justice of India.

(2) No appointment of a Chairperson or a Member shall be invalid merely by reason of any vacancy in the Committee.

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Removal of a Member of the Commission.

5. *(1)* Subject to the provisions of sub-section (2), the Chairperson or any other Member of the Commission shall only be removed from his office by order of the President on the ground of proved misbehaviour or incapacity after the Supreme Court, on reference being made to it by the President, has on inquiry held in accordance with the procedure prescribed in that behalf by the Supreme Court, reported that the Chairperson or such other Member, as the case may be, ought on any such ground to be removed;

(2) Notwithstanding anything in sub-section *(1)*, the President may by order remove from office the Chairperson or any other Member if the Chairperson or such other Member, as the case may be.-

(*a*) is adjudged an insolvent; or

(*b*) engages during his term of office in any paid employment outside the duties of his office; or

(*c*) is, unfit to continue in office by reason of infirmity of mind or body; or

(*d*) is of unsound mind and stands so declared by a competent court; or

(*e*) is convicted and sentenced to imprisonment for an offecne which in the opinion of the President involves moral turpitude.

Term of office of Members.

6. *(1)* A person appointed a Chairperson shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of seventy yeasr, whichever is earlier.

(2) A person appointed as a Member shall hold office for a term of five years from the date on which he enters upon his office and shall be eligible for re-appointment for another term of five years :

Provided that no Member shall hold office after he has attained the age of seventy yeasr;

(*3*) On ceasing to hold office, a Chairperson or a Member shall be ineligible for further employment under the Government of India or under the Government of any State;

Member to Act as Chair-person or to dischargehis function in certain circum stance .

7. *(1)* In the event of the occurrence of any vacancy in the office of the Chairperson by reason of his death, resignation or otherwise, the President may, by notification, authorise one of the Members to act as the Chairperson until the appointment of a new Chairperson to fill such vacancy.

(2) When the Chairperson is unable to discharge his functions owing to absence on leave or otherwise, such one of the Members as the President may, by notification, authorise in this behalf, shall discharge the functions of the Chairperson until the date on which the Chairperson resumes his duties.

Terms and conditions of service of Members.

8. The salaries and allowances payable to, and other terms and conditions of service of, the Members shall be such as may be prescribed :

Provided that neither the salary and allowances nor the other terms and conditions of service of a Members shall be varied to his disadvantage after his appointment.

Vacancies etc. not to invalidate the proceeding of the Commission.

9. No act or proceedings of the Commission shall be questioned or shall be invalidated merely on the ground of existence of any vacancy or defect in the constitution of the Commission.

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Procedure to be regulated by the Commission.

10. (1) The Commission shall meet at such time and place as the Chairperson may think fit.

(2) The Commission shall regulate its own procedure.

(3) All orders and decisions of the Commission shall be authenticated by the Secretary General or any other officer of the Commission duly authorised by Chairperson in this behalf.

Officer and other staff of the Commission.

11. (1) The Central Government shall make available to the Commission—

(*a*) an officer of the rank of the Secretary to the Government of India who shall be the Secretary General of the Commission; and

(*b*) such police and investigative staff under an officer not below the rank of a Director General of Police and such other officers and staff as may be necessary for the efficient performance of the functions of the Commission.

(2) Subject to such rules as may be made by the Central Government in this behalf, the Commission may appoint such other administrative, technical and scientific staff as it may consider necessary.

(3) The salaries, allowances and conditions of service of the officers and other staff appointed under sub-section (2) shall be such as may be prescribed.

CHAPTER III

FUNCTIONS AND POWERS OF THE COMMISSION

Functions of the Commission.

12. The Commission shall perform all or any of the following functions, namely:-

(*a*) inquire, *msou otu* or on a petition presented to it by victim or any person on his behalf into complaint of,—

(*i*) violation of human rights or abetment thereof; or

(*ii*) negligence in the prevention of such violation,—

by a public servant ;

(*b*) intervene in any proceeding involving any allegation of violation of human rights pending before a court with the approval of such court;

(*c*) visit, under intimation to the State Government, any jail or any other institution under the control of the State Government where pessons are detained or lodged for purposes of treatment, reformation or protection to study the living conditions of the inmates and make recommendations thereon;

(*d*) review the safeguards provided by or under the Constitution or any law for the time being in force for the protection of human rights and recommend measures for their effective implementation ;

(*e*) review the factors, including acts of terrorism, that inhibit the enjoyment of human rights and recommend appropriate remedial measures ;

(*f*) study treaties and other international instruments on human rights and make recommendations for their effective implementation ;

(*g*) undertake and promote research in the field of human rights;

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(*h*) spread human rights literacy among various sections of society and promote awareness, of the safeguards available for the protection of these rights, through publications, the media, seminars and other available means ;

(*i*) encourage the efforts of non-governmental organisations and institutions working in the field of human rights ;

(*j*) such other functions as it may consider necessary for the promotion of human rights.

Powers relating to inquiries

13. (1) The Commission shall, while inquiring into complaints under this Ordinance have all the powers of a civil court trying a suit under the Code of Civil Procedure, 1908 and in particular in respect of the following matters, namely :— 5 of 1908.

(*a*) summoning and enforcing the attendance of witnesses and examining them on oath ;

(*b*) discovery and production of any document ;

(*c*) receiving evidence on affidavits ;

(*d*) requisitioning any public record or copy thereof from any court or office;

(*e*) issuing commissions for the examinaion of witnesses or documents;

(*f*) any other matter which may be prescribed.

(2) The Commisson shall have power to require any person, subject to any privilege which may be claimed by that person under any law for the time being in force, to furnish information on such points or matters as, in the opinion of the Commission, may be useful for, or relevant to, the subject matter of the inquiry and any person so required shall be deemed to be legally bound to furnish such information within the meaning of section 176 and section 177 of the Indian Penal Code. 45 of 186

(3) The Commission or any other officer, not below the rank of a Gazetted Officer, specially authorised in this behalf by the Commission may enter any building or place where the Commission has reason to believe that any document relating to the subject matter of the inquiry may be found, and may seize any such document or take extracts or copies therefrom subject to the provisons of section 100 of the Code of Criminal Procedure, 1973, in so far as it may be applicable. 2 of 1974

(4) The Commission shall be deemed to be a civil court and when any offence as is described in section 175, section 178, section 179, section 180 or section 228 of the Indian Penal Code is committed in the veiw or presence of the Commission, the Commission may, after recording the facts constituting the offence and the statement of the accused as provided for in the Code of Criminal Procedure, 1973, forward the case to a Magistrate having jurisdiction to try the same and the Magistaret to whom any such case is forwarded shall proceed to hear the complaint against the accused as if the case has been forwarded to him under section 346 of the Code of Cirminal Procedure, 1973. 45 of 186 2 of 1974

(5) Every proceeding before the Commission shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for purposes of section 196, of the Indian Penal Code, and the Commision shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973. 45 of 186 2 of 197

Investigation.

14. (*1*) The Commission may for the purpose of conducting any investigation pertaining to the inquiry utilise the services of any offcer or investigation agency of the Central Government or any State Governent with the concurrence of the Central Government or the State Government, as the case may be.

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(2) For the purpose of investigating into any matter pertaining to the inquiry, any officer or agency whose services are utilised under sub-secion (*1*) may, subject to the direction and control of the Commission,—

(*a*) summon and enforce the attendance of any person and examine him;

(*b*) require the discovary and production of any document; and

(*c*) requisition any public record or copy thereof from any office.

(*3*) The provisions of section 15 shall apply in relation to any statement made by a person before any officer or agency whose services are utilised under sub-section (*1*) as they apply in relation to any statement made by a person in the course of giving evidence before the Commission.

(*4*) The officer or agency whose services are utilised under sub-section (*1*) shall investigate into any matter pertaining to the inquiry and submit a report thereon to the Commission within such period as may be specified by the Commission in this behalf.

(*5*) The Commission shall satisfy itself about the correctness of the facts stated and the conclusion, if any, arrived at in the report submitted to it under sub-section (*4*) and for this purpose the Commission may make such inquiry (including the examination of the person or persons who conducted or assisted in the investigation) as it thinks fit.

Statement made by persons to the Commission.

15. No statement made by a person in the course of giving evidence before te Commission shall subject him to, or be used aginst him in any civil or criminal proceeding except a prosecution forgiving false evidence by such statement:

Provided that the statement:—

(*a*) is made in reply to the question which he is required by the Commisson to answer; or

(*b*) is elevant to the subject matter of the inquiry.

Persons likely to be prejudicially affected to be heard.

16. If, at any stage of the inquiry, the Commisson,—

(*a*) considers it necessary to inquire into te conduct of any person; or

(*b*) is of the opinion that the reputation of any person is likely to be prejudicailly affected by the inquiry,

it shall giveto that person a reasonable opportunity of being heard in the inquiry and to produce evidence in his defence:

Provided that noting in this section shall apply where the credit of a witness is being impeached.

CHAPTER IV

PROCEDURE

Inquiry into complaints.

17. The Commission while inquiring into the complaints of violations of human rights may—

(*i*) call for information or report from the Central Government or any State Government or any other authority or organisation suboidrnate thereto within such time as may be specified by it :

Provided that—

(*a*) if the information or report is not received within the time stipulated by the Commission, it may proceed to inquire into the complaint on its own;

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(*b*) if, on receipt of information or report, the Commission is satisfied either that no further inpuiry is reuired or that the required action has been initiated or taken by the concerned Government or authority, it may not proceed with the complaint and inform the complainant accordingly.

(*ii*) without prejudice to anything contained in clause (*i*), if it considers necessary, having regard to the nature of the complaint, initiate an inquiry.

Steps after inquiry.

18. The Commission may take any of the following steps upon the completion of an inquiry held under this Ordinance, namely:—

(*1*) where the inquiry discloses, the commission of violation of human rights, it map recommened to the concerned Government or authority the initiation of proceedings for prosecution or such other action as the Commission may deem, fit, against the concerned person or persons ;

(*2*) approach the Supreme Court or the High Court concerned for such directions, orders or writs as that Court may deem necessary ;

(*3*) recommend to the concerned Government or authority for the grant of such immediate interim relief to the victim or the members of his family as the Commission may considers necessary ;

(*4*) subject to the provisions of clause (5) provide copy of the inquiry report to the petitioner or his representative ;

(*5*) the Commission shall send a copy of its inquiry report together with its recommendations to the concerned Government or authority and the concerned Government or authority shall, within a period of one month, or such further time as the Commission may allow, forward its comments on the report, including the action taken or proposed to be taken thereon, to the Commission ;

(*6*) the Commission shall publish its inquiry report together with the comments of the concerned Government or authority, if any, and the action taken or proposed to be taken by the concerned Government or authority on the recommendations of the Commission.

Procedure with respect to armed forces.

19. (*1*) Notwithstanding anything contained in this Ordinance, while dealing with complaints of violation of human rights by members of the armed forces, the Commission shall adopt the following procedure, namely—

(*a*) if may, either on its own motion or on receipt of a petition, seek a report from the Central Government;

(*b*) after the receipt of the report, it may either not proceed with the complaint or as the case may be, make its recommendations to that Government.

(*2*) The Central Government shall inform the Commission of the action taken on the recommendations within three months or such further time as the Commission may allow.

(*3*) The Commission shall publish its report together with its recommendations made to the Central Government and the action taken by that Government on such recommendations.

(*4*) The Commission shall provided a copy of the report published under sub-section (3) to the petitioner or his representutive.

Annual and special reports of the Commission.

20. (*1*) The Commission shall submit an annual report to the Central Government and to the State Government concerned and may at any time submit special reports on any matter which, in its opinions, is of such urgency or importance that it should not be deferred till submission of the annual report.

(*2*) The Central Government and the State Government, as the case may be, shall cause the annual and special reports of the Commission to be laid before each House of Parliament or the State Legislature respectively, as the case may be, along with a memorandum of action taken or proposed to be taken on the recommendations of the Commission and the reasons for non-acceptance of the recommendations, if any.

CHAPTER V

STATE HUMAN RIGHTS COMMISSIONS

Constitution of State Human Rights Commissions.

21. (*1*) A State Government may constitute a body to be known as the.......... (name of the State) Human Rights Commission to exercise the powers conferred upon, and to perform the functions assigned to, a State Commission under this Chapter.

(*2*) The State Commission shall consist of—

(*a*) a Chairperson who has been a Chief Justice of a High Court;

(*b*) one Member who is, or has been, a Judge of a High Court;

(*c*) one Member who is, or has been, a district judge in that State;

(*d*) two members to be appointed from amongst persons having knowledge of, or practical experience in, matters relating to human rights.

(*3*) There shall be a Secretary who shall be the Chief Executive Officer of the State Commission and shall exercise such powers and discharge such functions of the State Commission as it may delegate to him.

(*4*) The headquarters of the State Commission shall be at such place as the State Government may, by notification specify.

(*5*) A State Commission may inquire into violation of human rights only in respect of matters relatable to any of the entries enumerated in List II and List III in the Seventh Schedule to the Constitution :

Provided that if any such matter is already being inquired into by the Commission or any other Commission duly constituted under any law for the time being in force, the State Commission shall not inquire into the said matter. :

Provided further that in relation to the Jammu and Kashmir Human Rights Commission, this sub section shall have effect as if for the words and figures "List II and List III" the words and figures "List III as applicable to the State of Jammu and Kashmir", had been substituted.

Appointment of Chairperson and other Members of State Commission.

22. (*1*) The Chairperson and other Members shall be appointed by the Governor by warrant under his hand and seal :

Provided that every appointment under this sub-section shall be made after obtaining the recommendation of a Committee consisting of,-

(*a*) the Chief Minister —chairperson;

(*b*) Speaker of the Legislative Assembly —member;

(*c*) Minister in charge of the Department of Home in that State —member;

(*d*) Leader of the Opposition in the Legislative Assembly —member;

Provided further that where there is a Legislative Council in a State, the Chairman of that Council and the leader of the opposition in that Council shall also be members of the Committee:

Provided also that no sitting Judge of a High Court or a sitting district judge shall be appointed except after consultation with the Chief Justice of the High Court of the concerned State.

(2) No appointment of a Chairperson or a Member of the State Commission shall be invalid merely by reason of any vacancy in the Committee.

Removal of a Member of the State Commission.

23. (1) Subject to the provisions of sub-section (2), the Chairperson or any other Member of the State Commission shall only be removed from his office by order of the President on the ground of proved misbehaviour or incapacity after the Supreme Court, on a reference being made to it by the President, has, on inquiry held in accordance with the procedure prescribed in that behalf by the Supreme Court reported that the Chairperson or such other Member, as the case may be ought on any such ground to be removed.

(2) Notwithstanding anything in sub-section (*1*), the President may by order remove from office the Chairperson or any other Member if the Chairperson or such other Member, as the case may be,—

(*a*) is adjudged an insolvent; or

(*b*) engages during his term of office in any paid employment outside the duties of his office; or

(*c*) is, unfit to continue in office by reason of infirmity of mind or body; or

(*d*) is of unsound mind and stands so declared by a competent court; or ;

(*e*) is convicted and sentenced to imprisonment for an offence which in the opinion of the President involves moral turpitude.

Term of office of Members of the State Commission.

24. (*1*) A person appointed as Chairperson shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of seventy years, whichever is earlier.

(2) A person appointed as a Member shall hold office for a term of five years from the date on which he enters upon his office and shall be eligible for re-appointment for another term of five years:

Provided that no Member shall hold office after he has attained the age of seventy years.

(3) On ceasing to hold office, a Chairperson or a Member shall be ineligible for further employment under the Government of a State or under the Government of India.

Member to act as Chairperson or to discharge his function in certain circumstances.

25. (1) In the event of the occurrence of any vacancy in the office of the Chairperson by reason of his death, resignation or otherwise, the Governor may, bp notification, authorise one of the Members to act as the Chairperson until the appointment of a new Chairperson to fill such vacancy.

(2) When the Chairperson is unable to discharge his functions owing to absence on leave or otherwise, such one of the Members as the Governor may, by notification, authorise in this behalf, shall discharge the functions of the Chairperson until the date on which the Chairperson resumes his duties.

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Terms and conditions of service of Members of the State Comission.

26. The salaries and allowances payable to, and other terms and conditions of service of, the Members shall be such as may be prescribed by the State Government:

Provided that neither the salary and allowances nor the other terms and conditions of service of a Member shall be varied to his disadvantage after his appointment.

Officers and other staff of State Commission.

27. (*1*) The State Government shall make available to the Commission—

(*a*) an officer not below the rank of a Secretary to the State Government who shall be the Secretary of the State Commission; and

(*b*) such police and investigative staff under an officer not below the rank of an Inspector General of Police and such other officers and staff as may be necessary for the efficient performance of the functions of the State Commission.

(2) Subject to such rules as may be made by the State Government in this behalf, the State Commission may appoint such other administrative, technical and scientific staff as it may consider necessary.

(3) The salaries, allowances and conditions of service of the officers and other staff appointed under sub-section (2) shall be such as may be prescribed by the State Government.

Annual and special reports of State Commission.

28. (1) The State Commission shall submit an annual report to the State Government and may at any time submit special reports on any mater which, in its opinion, is of such urgency or importance that it should not be deferred till submission of the annual report.

(2) The State Government shall cause the annual and special reports of the State Commission to be laid before each House of State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House alongwith a memorandum of action taken or proposed to be taken on the the recommendations of the State Commission and the reasons for non acceptance of the recommendations, if any.

Application of certain provisions relating to National Human Rights Commission to State Commissions.

29. The provisions of sections 9, 10, 12, 13, 14, 15, 16, 17 and 18 shall apply to a State Commission and shall have effect, subject to the folowing modifications, namely:—

(*a*) references to "Commission" shall be construed as references to "State Commission";

(*b*) in section 10, in sub section (3), for the word "Secretary General", the word "Secretary" shall be substituted;

(*c*) in section 12, clause (*f*), shall be omitted;

(*d*) in section 17, in clause (*i*) the words "Central Government or any" shall be omitted.

CHAPTER VI

HUMAN RIGHTS COURTS

Human Rights Court.

30. For the purpose of providing for speedy trial of offences arising out of violation of human rights, the State Government may, with the concurrance of the Chief justice of the High Court, by notification, specify for each district a Court of Session to be a Human Rights Court to try the said offences.

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Provided that nothing in this section shall apply if—

(*a*) a Court of Session is already specified as a special court; or
(b) a special court is already constituted.
for such offences under any other law for the the time being in force.

Special Public Prosecutor.

31. For every Human Rights Court the State Government shall, by notification, specify a Public Prosecutor or appoit an advocate who has been in ptactice as an ad advocate for not less than seven years, as a Special Public Prosecutor for the purpose of conducting cases in that Court.

CHAPTER VII

FINANCE, ACCOUNTS AND AUDIT

Grants by the Central Government.

32. (*1*) The Central Government shall, after due appropriation made by Parliament by law in this behalf, pay to the Commission by way of grants such sums of money as the Central Government may think fit for being utilised for the purposes of this Ordinance.

(*2*) The Commision may spend such sums a at think fit for performing the functions under this Ordinance, and such sums shall be treated as expenditure peayable out of the grants referred to in sub-section (*1*).

Grants by the State Government.

33. (*1*) The State Government shall, after due appropriation made by Legislature by law in this behalf, pay to the State Commission by way of grant such sum of money as the State Governent may think fit for being utilised for the purposes of this Ordinance.

(*2*) The State Commission may spend such sums as it thinks fit for performing the functions under Chapter V, and such sums shall be treated as expenditure payable out of the grants referred to in sub-section (*1*).

Accounts and audit.

34. (1) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be precribed by the Central Government in consultations with the Comptroller and Auditor-General of Inia.

(*2*) The accounts of the Commision shall be audited by the Comptroller and Auditor-General at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Commision to the Comdptroller Auditor-General.

(*3*) The Comptroller and Auditor-General and any person appointed by him in connection with the audit of the accounts of the Commission under this Ordinance shall have the same rights and privileges and the authority in connection with such audit as the Cmptrollr and Auditor-General generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Commission.

(*4*) the accounts of the Commission, as certified by the Comptroller and Auditor General or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the Central Government by the Commission and the Central Government shall cause the audit report to be laid,, as soon as may be, after it is received, before each House of Parliament.

Accounts and audit of State Commission.

35. (*1*) The State Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the State Government in consultation with the Comproller and Auditor-General of India.

(*2*) The accounts of the State Commission shall be audited by the Comptrolle and Auditor-General at such intervals as may be specified by him and any expen-

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diture incurred in connection with such audit shall be payable by the State Commission to the Comptroller and Auditor-General.

(*3*) The Comptroller and Auditor-General and any person appointed by him in connection with the audit of the accounts of the State Commission under this Ordinance shall have the same rights and privileges and the authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts and, in particular, shall have the tight to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect of the offices of the State Commission.

(*4*) The accounts of the State Commission, as certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the State Government by the State Commission and the State Government shall cause the audit report to be laid, as soon as may be, after it is received, before the State Legislature.

CHAPTER VIII

MISCELLANEOUS

Matters not subject to jurisdiction of the Commission.

36. (*1*) The Commission shall not inquire into any matter which is pending before a State Commission or any other Commission duly constituted under any law for the time being in force.

(*2*) The Commission or the State Commission shall not inquire into any matter after the expiry of one year from the date on which the act constituting violation of human rights is alleged to have been committed.

Constitution of special investigation teams.

37. Notwithstanding anything contained in any other law for the time being in force, where the Government considers it necessary so to do, it may constitute one or more special investigation teams, consisting of such police officers as it thinks necessary for purposes of investigation and prosecution of offences arising out of violations of human rights.

Protection of action taken in good faith.

38. No suit or other legal proceeding shall lie against the Central Government, State Government, Commission, State Commission or any Member thereof or any person acting under the direction either of the Central Government, State Government, Commission of the State Commission in respect of anything which is in good faith done or intended to be done in pursuance of this Ordinance or of any rules or any order made thereunder or in respect of the publication by or under the authority of the Central Government, State Government, the Commission or the State Commission of any report, paper or proceedings.

Members and officers to be public servants.

39. Every Member of the Commission, State Commission and every officer appointed or authorised by the Commission or the State Commission to exercise functions under this Ordinance shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. 45 of 1860.

Power of Central Government to make rules.

40. (*1*) The Central Government may, by notification, make rules to carry out the provisions of this Ordinance.

(*2*) In particular and without prejudice to the generality of the fore going power such rules may provide for all or any of the following matters, namely :—

(*a*) the salaries and allowances and other terms and conditions of service of the Members under section 8;

(*b*) the conditions subject to which other administrative, technical and scientific staff may be apointed by the Commission and the salaries and allowances of officers and other staff under sub-section (*3*) of section 11;

(*c*) any other power of a civil court required to be prescribed under clause (*j*) of sub-section (*1*) of section 13;

(*d*) the form in which the annual statement of accounts is to be prepared by the Commission under sub-section (*1*) of section 34; and

(*e*) any other matter which has to be, or may be prescribed.

(*3*) Every rule made under this Ordinance shall be laid, as soon as may be after it made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power of State Government to make rules.

41. (*1*) The State Government may, by notification, make rules to carry out the provisions of this Ordinance.

(*2*) In particular and without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matters namely :—

(*a*) the salaries and allowances and other terms and conditions of service of the Members under section 26;

(*b*) the conditions subject to which other administrative, techinical and scientific staff may be appointed by the State Commission and the salaries and allowances of officers and other staff under the sub-section (*3*) of section 27 ;

(*c*) the form in which the annual statement of accounts is to be prepared under sub-section (*1*) of section 35.

(*3*) Every rule made by the State Government under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

Power to remove difficulties.

42. (*1*) If any difficulty arises in giving effect to the provisions of this Ordinance the Central Government may, by order published in the *Official Gazette*, make such provisions not inconsistent with the provisions of this Ordinance as appear to it to be necessary or expedient for removing the difficulty :

Provided that no such order shall be made after the expiry of the period of two years from the date of commencement of this Ordinance.

(*2*) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

SHANKER DAYAL SHARMA,
President.

K. L. MOHANPURIA,
Secy. to the Govt. of India.

By order and in the name of the Governor of Gujarat,

R. H. GORI,
Secretary to Government.

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Separate paging is given to this Part in order that it may be filed as a separate Compilation.

PART—VI

Acts of Parliament and Ordinances promulgated by the President.

GOVERNMENT OF GUJARAT

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, Dated the 14th December, 1993.

No. RP/126/93/46/93/RCS.—The following Act of Parliament is re-published for general information :

GOVERNMENT OF INDIA

MINISTRY OF LAW JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi the 7th June, 1993.

The following Act of Parliament received the assent of the President on the 5th June, 1993 and is hereby published for general information :

THE EMPLOYMENT OF MANUAL SCAVENGERS AND CONSTRUCTION OF DRY LATRINES (PROHIBITION) 1993.

AN ACT

to provide for the prohibitions of employment of manual scavengers as well as construction or continuance of dry latrines and for the regulation of construction and maintenance of water-seal latrines and for matteres connected therewith or incidental thereto.

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WHEREAS fraternity assuring the dignity of the individual has been enshrined in the Preamble to the Constitution;

AND WHEREAS article 47 of the Constitution *inter alia*, provides that the State shall regard raising the standard of living of its people and the improvement of public health as among its primary duties.;

AND WHEREAS the dehumanising practice of manual scavenging of human excreta still continues in many parts of the country ;

AND WHEREAS the municipal laws by themselves as a measure for conversion of dry latrines into water-seal latrines and prevention of construction of dry latrines are not stringent enough to eliminate this practice ;

AND WHEREAS it is necessary to enact a uniform legislation for the whole of India for abolishing manual scavenging by declaring employment of manual scavengeres for removal of human excreta an offence and thereby ban the further proliferation of dry latrines in the country ;

AND WHEREAS it is desirable for eliminating the dehumanising practice of employment of manual scavengers and for protecting and improving the human environment to make it obligatory to convert dry latrines into water-seal latrines or to construct water-seal latrines in new construction ;

AND WHEREAS Parliament has no power to make laws for the States with respect to the matters aforesaid except as provided in articles 249 and 250 of the Construction ;

AND WHEREAS in pursuance of clause (1) of article 252 of the Constitution resolutions have been passed by all the Houses of the Legislatures of the States of Andhra Pradesh, Goa, Karnataka Maharashtra Tripura and West Bengal that the matters aforesaid should be regulated in those States by Parliament by law;

BE it enacted by Parliament in the Fourty-fourth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title, application and commencement.

1. (*1*) This Act may be called the Employment of Manual Scavengeres and Construction of Dry Latrines (Prohibition) Act, 1993.

(*2*) It applies in the first instance to the whole of the States of Andhra Pradesh, Goa, Karnataka, Maharashtra, Tripura and West Bengal and to all the Union territories and it shall also apply to such other State which adopts this Act by resolution passed in that behalf under clause (*1*) of article 252 of the Constitution.

(*3*) It shall come into force in the States of Andhra Pradesh, Goa, Karnataka, Maharashtra, Tripura and West Bengal and in the Union territories on such date as the Central Government may, by notification, appoint and in any other State which adopts this Act under clause (*1*) of article 252 of the Constitution, on the date of such adoption.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "area" in relation to any provision of this Act, means such area as the State Government may, having regard to the requirements of that provision, specify by notification ;

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(b) "building" means a house, out-house, stable, latrine urinal, sheet house, hut, wall (other than boundary wall) or any other structure whether made of masonry, bricks, wood, mud, metal or other material;

(c) "dry latrine" mens a latrine other than a water-seal latrine.

(d) "environment" includes water air and land and the inter-relationship which exists among and between water air and land and human beings, other living creatures, plants, micro-organism and property ;

(e) "environmental pollutant" means any solid, liquid or gaseous substance present in such concentration as may be, or tend to be, injurious to environment;

(f) "environmental pollution"means the presence in the environment of any environmental pollutant;

(g) "Executive Authority" means an Executive Authority appointed under sub-section (1) of section 5 ;

(h) "HUDCO" means the Housing and Urban Development Corporation Limited, a Government company registered by that name under the Companies Act, 1956 ;

(i) "latrine" means a place set apart for defection together with the structure comprising such place, the receptacle therein for collection of human excreta and the fittings and apparatus, if any, connected therewith;

(j) "manual scavenger" means a person engaged in or employed for manually carrying human excreta and the expression "manual scavenging" shall be construed accordingly;

(k) "notification" meas a notification published in the Official Gazette;

(l) "prescribed" means prescribed by rules made under this Act;

(m) "State Government", in relation to a Union territory, means the Administrator thereof apointed under article 239 of the Constitution;

(n) "water-seal latrine" means pour-flush latrine, water flush latrine or a sanitary latrine with a minimum water-seal of 20 millimeters diameter in which human excreta is pushed in or flushed by water.

CHAPTER II

PROHIBITION OF EMPLOYMENT OF MANUAL SCAVENGERS, ACT.

Prohibition of employment of manual scavengers, etc.

3. (1) Subject to sub-section (2) and the other provisions of this Act, with effect from such date and in such area as the State Government may, by notification, specify in this behalf, no person shall—

(a) engage in or employ for or permit to be engaged in or employed for any other person for manually carrying human excreta; or

(b) construct or maintain a dry latrine.

(2) The State Government shall not issue a notification under sub-section (1) unless—

(i) it has, by notification, given not less than ninety days' notice of its intention to do so;

(ii) adequate facilities for the use of water-seal latrine in that area exist;

(iii) it is necessary or expedient to do so for the protection and improvement of the environment or public health in that area.

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Power to exempt.

4. The State Government may, by a general or special order published in the Official Gazette, and upon such conditions, if any, as it may think fit to impose, exempt any area, category of buildings or class of persons from any provisions of this Act or from any specified requirement contained in this Act or any rule, order, notification or scheme made thereunder or dispense with the observance of any such requirement in a class or classes of cases, if it is satisfied that compliance with such provisions or such requirement is or ought to be exempted or dispensed with in the circumstances of the case.

CHAPTER III

IMPLEMENTING AUTHORITIES AND SCHEMES

Appointment of Executive Authorities and their powers and functions.

5. (*1*) The State Government may, by order published in the Official Gazette, appoint a District Magistrate or a Sub-Divisional Magistrate, as an Executive Authority to exercise jurisdiction within such area as may be specified in the order and confer such powers and impose such duties on him, as may be necessary to ensure that the provisions of this Act are properly carried out and the Executive Authority may specify the officer or officers, subordinate to him, who shall exercise all or any of the powers, and perform all or any of the duties, so conferred or imposed and the local limits within which such powers or duties shall be carried out by the officer or officers so specified.

(*2*). The Executive Authority appointed under sub-section (*1*) and the officer or officers specified under that sub-section shall, as far as practicable, try to rehabilitate and promote the welfare of the persos who were engaged in or employed for as manual scavengers in any area in respect of which a notification under sub-section (*1*) of section 3 has been issued by securing and protecting their economic interests.

Power of State Government to make schemes.

6. (*1*) The State Government may, by notification, make one or more schemes for regulating conversion of dry latrines into, or consruction and maintenance of water-seal latrines, rehabilitation of the persons who were engaged in or employed for as manual scavengers in any area in respect of which a notification under sub-section(1) of section 3 has been issued in gainful employment and administration of such schemes and different schemes may be made in relation to different areas and for different purposes of this Act;

Provided that no such scheme as involving financial assistance from the HUDCO shall be made without consulting it.

(2) In particular, and without prejudice to the generality of the foregoing power, such schemes may provide for all or any of the following matters, namely:—

(*a*) time-bound phased programme for the conversion of dry latrines into water-seal latrines;

(*b*) provision of technical or financial assistance for new or alternate low cost sanitaton to local bodies or other agencies;

(*c*) construction and maintenance of community latrines and regulation of their use on pay and use basis;

(d) construction and maintenance of shared latrines in slum areas or for the benefit of socially and economically backward classes of citizens;

(*e*) registration of manual scavengers and their rehabilitation;

(*f*) specification and standards of water-seal latrines;

(*g*) procedure for conversion of dry latrines into water-seal latrines;

(*h*) licensing for collection of fees in respect of community latrines or shared latrines.

Power of State Government to issue directions.

7. Notwithstanding anything contained in any other law but subject to the other provisions of this Act, the State Government may, in the exercise of its powers and performance of its functions under this Act, issue directions in writing to any person, officer or local or other authority and such person, officer or a local or other authority shall be bound to comply with such directions.

Executive Authorities, inspectors, officers and other employees of such authorities to be public servants.

8. All Executive Authorities, all officers and other employees of such authorities including the officers authorised under sub-section (*1*) of section 5, all inspectors appointed under sub-section (*1*) of section 9 and all officers and other employees authorised to execute a scheme or order made under this Act, when acting or purporting to act in pursuance of any provisions of this Act or the rules or schemes made or oders or directions issued thereunder, shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

Appointment of inspectors and their powers of entry and inspection.

9. (*1*) The State Government may, by notification, appoint such persons as it may think fit to be inspectors for the purposes of this Act, and define the local limits within which they shall exercise their powers under this Act.

(*2*) Every inspector within the local limits of jurisdiction of an Executive Authority shall be sub ordinate to such authority.

(*3*) Subject to any rules made in this behalf by the State Government, an inspector may, within the local limits of his jurisdiction, enter, at all reasonable times, with such assistance as he considers necessary, any place for the purpose of—

(*a*) performing any of the functions of the Executive Authority entrusted to him;

(*b*) determining whether and if so in what manner, any such functions are to be performed or whether any provisions of this Act or the rules, orders or schemes made thereunder or any notice, order, direction or authorisation served, made, given or granted under this Act is being or has been complied with;

(*c*) examining and testing any latrine or for conducting an inspection of any building in which he has reason to believe that an offence under this Act or the rules, orders or schemes made thereunder has been or is being or is about to be committed and to prevent or mitigate environmental pollution.

Power of Executive Authortiy to prevent environmental pollution in cerntain cases.

10. (*1*) On receipt of information with respect to the fact or apprehension of any occurrence of contravention of the provisions of section 3, whether through intimation by some person or on a report of the inspector or otherwise, the Executive, Authority shall, as early as practicable, besides taking any other action under this Act, direct the owner or occupier of the premises to take such remedial measures, as may be necessary, within such reasonable time as may be specified therein and in case the owner or occupier, as the case may be, fails to comply with such directons, cause such remedial measures to be taken as are necessary to prevent or mitigate the environmental pollution at the cost of such owner or occupier of the premises.

(*2*) The expenses, if any, incurred by the Executive Authority with respect to the remedial measures referred to in sub-section (*1*) together with interest at such rate as the State Government may specify from the date when a demand for the expenses is made until it is paid, may be recovered by such authority or agency from the person concerned as arrears of land revenue or of public demand.

Duty of HUDCO to extend financial assistance in certain cases.

11. (*1*) Notwithstanding anything contained in its Memorandum of Association or Articles of Association or schemes for the grant of loans for housing and urban development, it shall be the duty of HUDCO to extend, in suitable cases, financial assistance for the implementation of such schemes for the construction of water-seal latrines as may be made under section 6.

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(2) The financial assistance referred to in sub-section (*1*) may be extended by HUDCO on such terms and conditions (including on easy and concessional rates of interest) and in such manner as it may think fit in cash case or class of cases.

Power to levy fee.

12. Any order or scheme which the State Government is empowered to make under this Act may, notwithstanding the absence of any express provision to that effect, provide for levy of fees in respect of—

(*a*) community latrines constructed under a scheme on pay and use basis; or

(*b*) shared latrines constructed under a scheme; or

(*c*) supply of copies of documents or orders or extracts thereof; or

(*d*) licensing of contractors for construction of water-seal latrines; or

(*e*) any other purpose or matter involving rendering of service by any officer, committee or authority under this Act or any rule, direction, order or scheme made thereunder :

Provided that the State Government may, if it considers necessary so to do, in the public interest, by general or special order published in the Official Gazette, grant exemption on such grounds as it deems fit from the payment of any such fee either in part or in full.

Constitution of committees.

13. (*1*) The Central Government may, by notification, constitute—

(*a*) one or more project Committees for appraising of the schemes for the construction of water-seal latrines in the country;

(*b*) one or more Monitoring Committees to monitor the progress of such schemes;

(*c*) such other committees for such purposes of the Act and with such names as the Central Government may deem fit.

(*2*) The composition of the committees constituted by the Central Government, the powers and functions thereof, the terms and conditions of appointment of the members of such committees and other matters connected therewith shall be such as the Central Government may prescribe.

(*3*) The members of the committees under sub-section (*1*) shall be paid such fees and allowances for attending the meetings as may be prescribed.

(*4*) The State Government may, by Notification, constitute—

(*a*) one or more State Co-ordination Committees for co-ordinating and monitoring of the programmes for the construction of water-seal latrines in the State and rehabilitation of the persons who were engaged in or employed for as manual scavengers in any area in respect of which a notification under sub-section (*1*) of section 3 has been issued;

(*b*) such other committees for such purpose of the Act and with such names as the State Government may deem it.

(*5*) The composition of the committees constituted by the State Government the powers and functions thereof, the terms and conditions of the members of such committees and other matters connected therewith shall be such as the State Government may prescribe.

(*6*) The members of the committees under sub-section (*4*) shall be paid such fees and allowances for attending the meetings as may be prescribed.

CHAPTER IV

PENALTIES AND PROCEDURE

Penalty for contravention of the provisions of the Act and rules, orders, directions and schmes.

14. Whoever fails to comply with or contravenes any of the provisions of this Act, or the rules or schemes made or orders or directions iussued thereunder, shall, in respect of each such failure or contravention be punishable with imprisonment for a term which may extend to one year or with fine, which may extend to two thousand rupees, or with both, and in case the failure or contravention continues, with additional fine which may extend to one hundred rupees for every day during which such failure contravention continues after the conviction for the first such failure or contravention.

Offences by companies.

15. (*1*) If the person committing an offence under this Act is a company, the company as well as every person in charge of, and responsible to, the company for the conduct of its business at the time of the commission of the offence, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(*2*) Notwithstanding anything contained in sub-section (*1*), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any neglect on the part of any director, manager, managing agent or such other officer of the company, such director, manager, managing agent or such other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section —

(*a*) "company" means any body corporate and includes a firm or other association of individuals; and

(*b*) "director" in relation to a firm means a partner in the firm.

Offences to be cognizable.

of 1974. **16.** Notwithstanding anything contained in the Code of Criminal Procedure 1973, every offence under this Act shall be cognizable.

Provisions in relation to jurisdictions.

17. (*1*) No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence under this Act.

(*2*) No prosecution for any offence under this Act shall be instituted except by or with the previous sanction of the Executive Authority.

(*3*) No court shall take cognizance of any offence under this Act except upon a complaint made by a person generally or specially authorised in this behalf by the Executive Authority.

Limitation of prosecution.

18. No court shall take cognizance of an offence punishable under this Act unless the complaint thereof is made within three months from the date on which the alleged commission of the offence came to the knowledge of the complaint.

CHAPTER V

MISCELLANEOUS

Information, reports or returns.

19. The Central Government may in relation to its functions under this Act, from time to time, require any person, officer, State Government or other authority to furnish to it, any prescribed authority or officer any reports, returns, statistics, accounts and other information as may be deemed necessary and such person, officer, State Government or other authority, as the case may be, shall be bound to do so.

Protection of action taken in good faith.

20. No suit, prosecution or other legal proceedings shall lie against the Government or any officer or other employee of the Government or any authority constituted under this Act or executing any scheme made under this Act or any member, officer or other employee of such authority or authorities in respect of anything which is done or intended to be done in good faith in pursuance of this Act or the rules or schemes made, or the orders or directions issued, thereunder.

Effect of other laws and agreements inconsistent with the Act.

21. (*1*) Subject to the provisions of sub-section (*2*), the provisions of this Act, the rules, schemes or orders made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act, custom, tradition, contract, agreement or other instrument.

(*2*) If any act or omission constitutes an offence punishable under this Act and also under any other Act, then, the offender found guilty of such offence shall be liable to be punished under the other Act and not under this Act.

Power of Central Government to make rules.

22. (*1*) The Central Government may, by notification, make rules to carry out the provisions of this Act.

(*2*) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*i*) the composition of the Project Committees, Monitoring Committees and other committees constituted by the Central Government under sub-section (*1*) of section 13, the powers and functions thereof, the number of members and their terms and conditions of appointment and other matters connected therewith.

(*ii*) the fees and allowances to be paid to the members of the committees constituted under sub-section (*1*) of section 13.

(*3*) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made the rule thereafter shall have effect only in such modified form or be of no effect as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power of State Government to make rules.

23. (*1*) The State Government may, by notification make rules, not being a matter for which the rules are or required to be made by the Central Government for carrying out the provisions of this Act.

(*2*) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*i*) the composition of the State Co-ordination Committees and other committees constituted by the State Government under sub-section (*4*) of section 13, the powers and functions thereof, the number of members and their terms and conditions of appointment and other matters connected therewith.

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(*ii*) the fees and allowances to be paid to the members of the committees constituted under sub-section (*4*) of section 13;

(*iii*) any other matter which is required to be or may be prescribed.

(*3*) Every rule and every scheme made by the State Government under this Act, shall be laid, as soon as may be after it is made, before the State Legislature.

Power to remove difficulties

24. (*1*) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette. make such provisions, not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for the removal of the difficulty:

Provided that no such order shall be made in relation to a State after the expiration of three years from the commencement of this Act in that State.

(*2*) Every order made under this section shall, as soon as may be after it is made be laid before each House of Parliament.

K. L. MOHANPURIA,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

SMT. K. R. TRIVEDI,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR

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PART—VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, Dated the 20th December, 1993.

No. RP/154/93/32/93/ /E.—The following Ordinance promulgated by the President and published in the Gazette of India Extra-ordinary, Part-II, Section 1, dated the 1st October, 1993 is republished for general information:—

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 1st October, 1993/Bhadra 10, 1915 (Saka).

THE CHIEF ELECTION COMMISSIONER AND OTHER ELECTION COMMISSIONERS (CONDITIONS OF SERVICE) AMENDMENT ORDINANCE, 1993.

No. 32 OF 1993.

Promulgated by the President in the Forty-fourth Year of the Republic of India.

An Ordinance to amend the Chief Election Commissioner and other Election Commissioner (Conditions of Service) Act, 1991.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action :

Now, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President to promulgate the following Ordinance:—

Short title and commencement.

1. *(1)* This Ordinance may be called the Chief Election Commissioner and other Election Commissioners (Conditions of Service) Amendment Ordinance, 1993.

(2) It shall come into force at once.

Amendment of long title.

2. In the Chief Election Commissioner and other Election Commissionrs (Conditions of Service) Act, 1991 (hereinafter referred to as the principal Act), in the long title, for the words "and for matters", the words "and to provide for the procedure for transaction of business by the Election Commission and for matters" shall be substituted.

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Amendment of section 1.

3. In section 1 of the principal Act, for the words and brackets "the Chief Election Commissioner and other Election Commissioners (Conditions of Service)", the words and brackets "the Election Commission (Conditions of Service of Election Commissioners and Transaction of Business)" shall be substituted.

Amendment of section 2.

4. In section 2 of the principal Act, clause (b) shall be re-numbered as clause (c) and before clause *(c)* as so re-numbered, the following clause shall be inserted, namely:—

'*(b)* "Election Commission" means the Election Commission referred to in article 324 of the Constitution;'.

Amendment of section 3.

5. In section 3 of the principal Act,—

(a) in sub-section *(1)*,—

(i) the brackets and figure "*(1)*" shall be omitted;

(ii) after the words "Chief Election Commissioner", the words "and other Election Commissioners" shall be inserted.

(b) in sub-section (*2*), the brakets, figure and words "(*2*) There shall be paid to an Election Commissioner a salary which is equal to the salary of a Judge of a High Court;" shall be omitted.

Amendment of section 4.

6. In section 4 of the principal Act, for the first proviso, the following proviso shall be substituted, namely:—

"Provided that where the Chief Election Commissioner or an Election Commissioner attains the age of sixty-five years before the expiry of the said term of six years, he shall vacate his office on the date on which he attains the said age;".

Amendment of section 6.

7. In section 6 of the principal Act,—

(a) in sub-section (*2*),—

(i) after the words "Chief Election Commissioner", the words "or an Election Commissioner" shall be inserted;

(ii) for the wrod, brakets and figure "sub-section (*4*)", the word, brackets and figure "sub-section (*3*)" shall be substitued;

(b) sub-section (*3*) shall be omitted;

(c) sub-section (*4*) shall be re-numbered as sub-section (*3*) and in sub-section (*3*) as so re-numbered, in clause (*b*), the words "or as the case may be, sixty-two years," shall be omitted.

Amendment of section 8.

8. In section 8 of the principal Act, for the portion beginning with the words "for the time being, applicable to", and ending with words "apply to an Election Commissioner", the following shall be substituted, namely:—

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"for the time being, applicable to a Judge of the Supreme Court under Chapter-IV of the Supreme Court Judges (Conditions of Service) Act, 1958 and the rules made thereunder, shall, so far as may be, apply to the Chief Election Commissioner and other Election Commissioners.".

9. After section 8 of the principal Act, the following Chapter shall be inserted, namely:—

Insertion of new Chapter III.

"CHAPTER-III

TRASACTION OF BUSINESS OF ELECTION COMMISSION.

9. The business of the Election Commission shall be transacted in accordance with the provisions of this Act.

Transaction of business of Election Commission.

10. (*1*) The Election Commission may, by unanimous decision, regulate the procedure for transaction of its business as also allocation of its business amongst the Chief Election Commissioner and other Election Commissioners.

Disposal of business by Election Commission.

(*2*) Save as provided in sub-section (*1*), all business of the Election Commission shall, as far as possible, be transacted unanimously.

(*3*) Subject to the provisions of sub-section (*2*), if the Chief Election Commisioner and other Election Commissioners differ in opinion on any matter, such matter shall be decided according to the opinion of the majority."

Sd./-
SHANKER DAYAL SHARMA,
President.

Sd/—
K. L. MOHANPURIA,
Secy. to the Govt. of India.

By order and in the name of the Governor of Gujarat,

Smt. K. R. TRIVEDI.
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.